



Implementation Issues and Policy Implications of Body-Worn Cameras in Routine Police Encounters With Citizens

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Implementation Issues and Policy Implications of Body-Worn Cameras in
Routine Police Encounters with Citizens

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A Thesis in the Field of Government
for the Degree of Master of Liberal Arts in Extension Studies

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Abstract

This study investigates the impact body-worn cameras (BWCs) will have on police-citizen encounters. In an era of increasing surveillance, both private and public, what role should BWCs play? Further, what legislation and institutional safeguards must be put in place to protect privacy and prevent BWCs from becoming a tool to surveil marginalized communities?

The implementation of BWCs appears a forgone conclusion in many communities where police relations are tenuous. Specifically, the presence of BWCs can help eliminate excessive force by encouraging pro-social behavior on behalf of both police officers and citizens. Additionally, BWCs can even play a role in reducing lawful uses of force because if a citizen, initially bent on non-compliance with an officer's commands, realizes that the encounter is being recorded, they are likely to change their behavior for the better.

This study concludes that BWCs should be supported with the following limitations: BWC videos must not be considered a public record, and therefore susceptible to general public record's requests. BWC videos will record areas where people will have a reasonable expectation of privacy and these intrusions should not be generally available, except under certain preauthorized circumstances. Additionally, BWCs must not transition into a mass surveillance tool for police. Therefore, this study recommends strict purge requirements for videos that are not applicable to an investigation.

Dedication

This thesis is dedicated to Kristen, Carson and Brandon. My family is everything and the very thought of you motivates me to be better, and to do better.

Acknowledgements

First, I would like to express my sincere gratitude to Professor Ronald S. Sullivan Jr. for the continuous support of my thesis study and feedback. I also want to thank him for his patience, motivation, and immense knowledge. I could not have imagined having a better advisor than him.

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Chapter I

Introduction

Historically, there is little documentary evidence of most encounters between police officers and the public (in the sense of reliably stored, retrievable, and reproducible evidence independent of anyone's verbal or written account). Due to the often volatile nature of those encounters, this lack of documentary evidence often resulted in radically divergent accounts of incidents. Now, citizens stopped by police and onlookers in the area often record these encounters with mobile phone cameras, and this recording by onlookers often frustrates police who feel it can be intrusive and confrontational. This frustration sometimes leads to the arrest of citizens by officers who view this activity as contemptible. Yet many officers find it difficult to find particular statute violation(s) for unlawful recording, and instead charge the citizen with ambiguous violations, such as "obstruction" or "failure to obey the lawful order of a police officer."¹ Body-worn cameras (BWCs, also known as body-mounted cameras or BMCs) have been developed and tested as an answer to control unlawful police conduct. In the face of what seems to be an escalating public relations war over accusations of violent, abusive, or even lethal police behavior, cameras have the potential to be a win-win adopted practice for law enforcement, helping protect the public against police misconduct and simultaneously helping protect police against false accusations. However, there also exists the potential for their use to extend a regime

¹ Frank Eltmann and Associated Press, "Citizens Taking Video of Police See Themselves Facing Arrest," *SFGate*, accessed October 8, 2015, <http://www.sfgate.com/news/crime/article/Police-sometimes-turn-on-the-citizen-with-a-6473271.php>.

of monitoring and surveillance currently experienced by some urban populations as a form of social oppression, which is motivated by cultural or institutional racism under the guise of pro-active policing. If that is the ultimate effect of how this technology is used in practice, then that will undermine or even negate the hoped for benefits of transparency and increased compliance with the law and police procedure.

It is hard to dispute the emerging consensus among so many police departments across the United States that BWCs' use can help solve or correct many issues facing the current state of law enforcement in this country. However, it is not and cannot be a panacea. The adoption of BWCs seems to answer the growing call for more transparency in how policing is conducted and how officer-citizen contacts are handled. Body-worn cameras can seem an antidote to the seemingly ubiquitous filming of police encounters by the general public (or community activists) determined not only to hold the police accountable, but to look for the slightest evidence of police misconduct. If filming of police encounters by members of the public can now be assumed as a given, why should not the police be permitted to record their encounters in such a way that registers the officer's point of view and corrects false assertions of misconduct? So much of the evidence gathered by police departments experimenting with BWCs and the resultant video is positive enough that its near-universal adoption seems almost imperative, a foregone conclusion from the viewpoint of many lawsuit-burdened (or cautious) police departments. Citizen complaints seem to decline dramatically when citizens stopped during encounters become aware that their encounters are being recorded. Officers also seem to behave more circumspectly and appropriately while being recorded. While no police officer has yet been convicted of a serious crime toward a suspect or detainee on the basis of such footage, it was decisive in

the indictment of Albuquerque officers in the recent killing of James Boyd. The footage seems to show a homeless man running away then shot in the back.² A more recent incident in Cincinnati seems to show officers colluding on a fabricated story after the shooting death of a suspect.³ The same incident raised questions of why footage from an officer's BWC was not made available to the public given that the BWC footage directly contradicted their written report.⁴

Can Transparency Be a Bad Thing?

An answer in the negative to this question may lie in how police-centric videotaping reinforces which of two patterns of policing is to be pursued: an enforcement approach versus a more community-centered approach. The former approach has indubitably become the dominant approach for United States' municipalities despite lip service to a community approach. In their 2013 book *Hunting for 'Dirtbags': Why Cops Overpolice the Poor and Racial Minorities*, Way and Patten outline how an approach to police-community relations focused on police profiling and proactive apprehension has come to dominate police-community relations in America.⁵ Police whose performance is measured

² "Shot by the Police in Albuquerque," *New Yorker*, accessed October 8, 2015, <http://www.newyorker.com/magazine/2015/02/02/son-deceased>.

³ "Criminologist: UC Officer Could Be Charged with Lying," *Cincinnati.com*, accessed October 9, 2015, <http://www.cincinnati.com/story/news/2015/07/31/criminologist-uc-officer-charged-lying/30890861/>.

⁴ Jeremy Stahl, "New Body Cam Videos Show Cops Coalescing around False Narrative of Sam DuBose Killing," *Slate*, July 30, 2015, http://www.slate.com/blogs/the_slatest/2015/07/30/sam_dubose_murder_phillip_kidd_and_david_lindensehmidt_suspended_after_backing.html.

⁵ Lori Beth Way and Ryan Patten, *Hunting for Dirtbags: Why Cops Over-Police the Poor and Racial Minorities* (UPNE, 2013), <https://books.google.com/books?hl=en&lr=&id=GjzzJ0oNLeIC&oi=fnd&pg=PP2&dq=Hunting+for+%22>

by metrics such as arrests and citations stick to poor inner city neighborhoods where they concentrate on meeting those metrics by arresting and citing previous offenders or pursuing other “suspicious” persons in the public arena whose crimes center disproportionately on drug offenses. These are the citizens stopped, apprehended, and arrested as an “easy” way to meet performance metrics. Way and Patten contend that this constitutes the unintended imposition of a surveillance regime aimed at the poor and people of color.⁶ This is ultimately a matter of politics, surveillance, racial oppression, and social control despite individual good intentions and idealism about stopping crime and drugs. Since there is a high population density of prior offenders in poor African American neighborhoods, these seem logical targets of pro-active policing. Drug crimes and petty offenses are searched for in these areas in a way that is not done in middle class or white neighborhoods.⁷ As the rap sheets of such targeted suspect’s lengthen under such scrutiny and their employment prospects dwindle, they often become career criminals. Such a policing method can paradoxically create more hardened criminals even as it seeks to deter them because officers are explicitly incentivized to make more arrests given social and political approval to do so. The result is that many residents of inner-city African American neighborhoods feel so targeted for surveillance and collective harassment that a subcultural norm of not informing on suspects under any circumstances has arisen and is often observed even by victims (informally known as “snitches get stitches”).⁸ Will the use of BWCs to record

Dirtbags%22:+Why+Cops+Over-Police+the+Poor+and+Racial+Minorities&ots=jMEaxqtOHE&sig=eNmrCvgrjtlzbE7ngzgm7PnGAZY.

⁶ Ibid.

⁷ Ibid.

every officer-citizen encounter make this situation worse, with community members seeing an Orwellian Big Brother's eye watching and recording them on every officer's uniform?

So much of the consideration of these questions and how they apply to BWCs and the resultant video will inform how that video is taken, stored, used, and shared. This calls for the application to BWCs and similar technologies of current theorizing and research about approaches to policing and its role and purpose in a democratic society. There are also issues not just of privacy and civil liberties but of how crime is defined, detected, sanctioned, and prosecuted.

To see the broader point of such an application, let us step back to consider the larger picture of criminal and drug enforcement in the United States. One important statistic is that the United States incarcerates a higher proportion of its adult population than any other country except one, and that is the Seychelles Islands (population fewer than one hundred thousand).⁹ Why should this be the case? How is it that the U.S. imprisons proportionately three times as many of its adults as Russia, China, or many other nations with much higher violent crime rates? Are Americans just better at catching and convicting criminals? Or is the explanation perhaps how we perceive the criminal element? The

⁸ Alexandra Natapoff, *Snitching: Criminal Informants and the Erosion of American Justice* (New York: New York University Press, 2009), 121–122, <https://books.google.com/books?hl=en&lr=&id=gkMx-o6dNK8C&oi=fnd&pg=PR7&dq=Snitching:+Criminal+Informants+and+the+Erosion+of+American+Justice&ots=YrqrTe50Wk&sig=dxmAGZuaiuNywmc0ltgVLZhCkDU>.

⁹ “Ranking: Most Prisoners per Capita by Country 2015 | Statista,” *Statista*, accessed October 9, 2015, <http://www.statista.com/statistics/262962/countries-with-the-most-prisoners-per-100-000-inhabitants/>.

absolute number of adults incarcerated in the United States has almost quintupled since the 1970s while the population has increased by less than fifty percent.¹⁰

In her book *The New Jim Crow: Mass Incarceration in an Age of Colorblindness*, Michelle Alexander contends that the War on Drugs and its huge increase in arrests and prosecutions of narcotics-related offenses is the primary explanation.¹¹ Although these behaviors were already criminalized, the rate of drug use has remained approximately the same since 1983, and there is no significant difference in drug use between whites and African Americans. The relentless hunting down of drug users, possessors, and sellers has resulted in a massive increase in the size and scope of law enforcement while not deterring its major target. Even non-drug offenses are prosecuted more zealously than in other industrial democracy.¹²

Fordham Law School professor John Pfaff cites overwhelming statistical evidence that drug prosecutions are an important but secondary factor in this huge increase. An increase in the violent crime rate before 1991 drove significantly increased prosecution and incarceration rates, even while average lengths of sentences actually served have not

¹⁰ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New Press, 2012), https://books.google.com/books?hl=en&lr=&id=_SKbzXqmawoC&oi=fnd&pg=PA1&dq=The+New+Jim+Crow:+Mass+Incarceration+in+an+Age+of+Colorblindness&ots=jrAhzGb2ex&sig=Fj5GqgnJ9bL3aKpjOTFqc1WnlTk.

¹¹ Ibid.

¹² Leon Neyfakh, "Why Are So Many Americans in Prison?," *Slate*, February 6, 2015, http://www.slate.com/articles/news_and_politics/crime/2015/02/mass_incarceration_a_provocative_new_theory_for_why_so_many_americans_are.html.

appreciably increased.¹³ Some of this reflects not just increased police efficiency, but focused prosecution of the same perpetrators due to recidivism and an increased desire by citizens to deter crime.¹⁴ Such repeat incarcerations are a direct result of a regime of proactive policing with arrest and citation quotas.¹⁵

U.S. police departments probably have gotten much better at identifying and apprehending violent and narcotics criminals, but in a certain sense that raises the question: What is causing this anomalous rate of prosecuted criminality, and is it related to how our cities conduct policing? Does the United States really have more crime than any other country in the world except one? Even if mass incarceration is an effect of superlatively efficient American policing, is there always a net social benefit for locking up this many offenders? If the accompanying effect is collective alienation and lost systemic legitimacy by a large number of disproportionately African American citizens, the answer may be no. The imposition of a proactive, surveillance oriented regime whereby the police do not just investigate crimes reported by citizens but go after those people they identify as potential criminals (defined in sometimes prejudiced and circular ways) allows the police to meet performance quotas, but at the cost of community engagement and trust.¹⁶

¹³ John F. Pfaff, "The Myths and Realities of Correctional Severity: Evidence from the National Corrections Reporting Program on Sentencing Practices," *American Law and Economics Review*, 2011, <http://aler.oxfordjournals.org/content/early/2011/09/14/aler.ahr010.short>.

¹⁴ John F. Pfaff, "Escaping from the Standard Story: Why the Conventional Wisdom on Prison Growth Is Wrong, and Where We Can Go from Here," *Federal Sentencing Reporter* 26, no. 4 (2014): 265–270.

¹⁵ John F. Pfaff, "The Micro and Macro Causes of Prison Growth," *Georgia State University Law Review* 28, no. 4 (2013): 9.

¹⁶ Way and Patten, *Hunting for Dirtbags*.

Where the adoption of body-worn cameras becomes part and parcel of the equipment carried by the typical American police officer, we need policies that encourage and reinforce community-policing philosophies. This philosophy also ties into privacy and surveillance issues in that some policing approaches tend to view, define, and value these issues quite differently. There is also the broader question of what and who is being policed and what and who is being prosecuted. The dimension of race is crucial and unavoidable here. At any given time the percentage of African Americans in jail or prison is approximately three times that of whites or Latinos.¹⁷ The debate and discussion over whether and how to use BWCs has happened during the last several years as the number of media-publicized controversial police killings of African Americans has increased. There seems to be increasing focus, attention, and anger within the African-American community, not only about perceived illegal killings but also of harassment, corruption, and intrusive surveillance that is perceived as both commonplace and degrading. It is not a new development – some of the original police departments were slave patrols in the nineteenth century and later during the twentieth century many departments had “riot squads” that often targeted minorities (not just African American, but Irish, Germans, and others).¹⁸ Concern over documentation and discussion of how encounters between police and African Americans are discursively framed and publicized (and also how they in fact occur) can safely be said to drive officers’ desire to adopt a technology that can help them

¹⁷ Heather C. West and William J. Sabol, “Prison Inmates at Midyear 2008-Statistical Tables,” *Bureau of Justice Statistics* 225619 (2009), http://www.oas.int/dsp/Observatorio/Tablas/usa/US_prison_inmates_statistical_tables_2008.pdf.

¹⁸ Jamelle Bouie, “Black and Blue,” *Slate*, October 13, 2014, http://www.slate.com/articles/news_and_politics/politics/2014/10/diversity_won_t_solve_police_misconduct_black_cops_don_t_reduce_violence.html.

present their side of violent or controversial encounters. These concerns from both police and the community will shape the use of BWC technology and how video is stored, handled, and shared. The goal for police will be to justify how an extension of surveillance power in public and sometimes private spaces is to be carried out without being abused. Police may feel that the extension of surveillance is not itself an abuse in the face of citizens' counter-surveillance and publication through social media. How do they ensure that sentiment is not only communicated but ultimately shared? What implications might guidelines for the use and sharing of BWC video recording have for even newer technologies and methods that can also seem an intrusive extension of surveillance? The use of powerful computing and data technology to gather and correlate information and monitor citizens will not lead to an Orwellian state of affairs but rather possibly a hyper-Orwellian one. Big data and artificial intelligence were not foreseen in Orwell's novel *1984*. A resulting regime of social surveillance and control might be less violent and brutal, but even more intrusive and subtly insidious as surveillance empowers a new level of privacy erosion. The more we can gather, collate, and crunch data on people, the greater the temptation to use it to control and sanction bad behavior (and expand what defines crime). Mass surveillance can also be used in nudging people to behave in ways defined as good. This extension of surveillance and social control will likely produce better policy outcomes and improve citizen quality of life if the appropriate framework of legislation and agency self-regulation is put in place.

Definitions

What are the “police” and what should be defined as “policing?” Policing is widely described as involving the focused and restrained use of force in pursuit of goals of law enforcement, crime prevention, and order maintenance.¹⁹ “Police” are those that carry out these goals.

¹⁹ Kim Michelle Lersch and Tom Mieczkowski, “Violent Police Behavior: Past, Present, and Future Research Directions,” *Aggression and Violent Behavior* 10, no. 5 (2005): 552–568.

Chapter II

Background

The demand for BWC video is a direct indication of how bad the police-citizenry relationship has become. According to a U.S. Department of Justice website, as “both the public and the police increasingly feel the need to videotape every interaction, this can be seen both as a reflection of the times and as an unfortunate commentary on the state of police-community relationships in”²⁰ many jurisdictions, especially where there are tense race relations. The policing profession “has come too far in developing and strengthening relationships with its communities to allow encounters with the public to become officious and legalistic”²¹ as everyone involved becomes conscious of a police-citizen encounter not just as a possible confrontation and exercise of harassment, but as a self-conscious and even stylized performance on both sides given the mutual awareness of electronic eyes and surveillance. “Body-worn cameras can increase accountability, but police agencies must also find a way to preserve the informal and unique relationships between police officers and community members.”²² That is a lofty goal easier held up and paid lip service to than thought through and implemented. Given the prevalence of proactive, deterrence-oriented policing, it is all too easy to let the technology help frame encounters as occurring between quasi-military occupiers instead of between cooperating citizens.

²⁰ “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned,” 5, accessed October 9, 2015, http://cops.usdoj.gov/html/dispatch/10-2014/body_worn_camera_program.asp.

²¹ Ibid., 6.

²² Ibid., 7.

As for what defines proper use of force versus excessive use of force, Farrar writes that the former “encompasses physical force more than a basic control or ‘compliance hold,’ and includes the use of OC spray, baton, Taser, canine bite or firearm.”²³ The descriptions of force as listed correspond roughly to an escalating hierarchy of force necessary to control the situation so as to minimize harm to the officer, other citizens and police present, and the suspect. When force is appropriate and at what level varies by department, method and approach of policing, and individual officers. Generally speaking, excessive force would be that force above what is reasonably necessary to control a situation, but that does not automatically turn excessive force into “brutality.” Brutality, on the other hand, “is a conscious and venal act committed by officers who usually take great pains to conceal their misconduct.”²⁴ In many ways excessive force is a training issue, whereas brutality is an officer issue, but usually only if the police subculture is willing to accept it. Here is where BWCs may play an important role because sadistic officers should be tempered with the fact that there will be a recording of the event.

When the Supreme Court ruled in *Tennessee v. Garner* that law enforcement officers could not use lethal force merely to stop a criminal fleeing apprehension without being a threat to life, that ruling set in motion an entire stage of questioning of when police were authorized to use force, especially lethal force. What procedures and training are in place to guide officer-citizen encounters and help guide when and how lethal force is to be

²³ Tony Farrar and Barak Ariel, “Self-Awareness to Being Watched and Socially-Desirable Behavior: A Field Experiment on the Effect of Body-Worn Cameras on Police Use-of-Force,” *Washington, DC: Police Foundation*, 2013, 6.

²⁴ Jerome H. Skolnick and James J. Fyfe, *Above the Law: Police and the Excessive Use of Force* (New York: Free Press, 1993), 31, <http://www.ncjrs.gov/App/abstractdb/AbstractDBDetails.aspx?id=141219>.

deployed. Some departments such as the NYPD have adopted policies that require officers to use the minimal amount of force necessary to control a situation. In comparison, LAPD requires their officers use only that force which is objectively reasonable under the circumstances, which may not necessarily be the minimal force available.

The hope is that BWCs will tend to be a factor lessening the need for force or for a situation to needlessly escalate. Farrar suggests this is the case from BWC trials in Rialto, California where the observed incidences of use of force in encounters known to be on video by all parties was less than half of that in encounters unrecorded by BWCs.²⁵ Citizen complaints against officers with BWCs became virtually non-existent. All parties tended to behave better so as to not needlessly escalate the situation once they knew they were being monitored and recorded.

BWCs may also play an important role in eliminating the so-called “police problem.” The police problem, according to Gary W. Sykes, “can be summarized into three broad categories; Conduct, corruption and productivity.”²⁶ Police managers have sought solutions to these endemic problems for decades. Some of the improvements police managers have made include a general increase in professionalism via stricter hiring standards, minimal education requirements, academies, field training, and aggressive internal affairs units. Yet, one of the most difficult hurdles has been controlling police behavior while officers are in the field. Unlike many occupations where workers perform their duties around co-workers or customers, police officers are highly autonomous. An

²⁵ Farrar and Ariel, “Self-Awareness to Being Watched and Socially-Desirable Behavior.”

²⁶ Gary W. Sykes, “The Functional Nature of Police Reform: The ‘Myth’ of Controlling the Police,” *Justice Quarterly* 2, no. 1 (March 1, 1985): 52, doi:10.1080/07418828500088381.

officer's jurisdiction may span several hundred miles and a sergeant will be unable to constantly observe his or her officers. Departments often depend on citizen complaints to weed out corrupt officers. In this regard BWCs may be a game-changer. If implemented properly the agency would have a new degree of insight into the officer's performance and activities.

These are the broad dimensions for evaluating and conceptualizing the impact of BWCs on behavior because these dimensions already are useful for problematizing police-citizen encounters.

What is productive and effective in achieving stated goals for deterring and controlling crime may well involve trade-offs with officers who themselves do not want to be recorded. Corruption tends to negatively impact police conduct and productivity, although how broadly corruption is defined is significant. Some factors of corruption, such as inefficiency, brutality, and discrimination, are hardly unique to America: All industrialized nations experience these problems. Samuel Walker has noted in *Michigan Law Review* that some polities had these issues to an even worse degree depending upon culture and history, with a difference of degree rather than of kind.²⁷ What really then is the American experience here in context and comparison?

First, we should recognize that excessive force is a rare event in America. Yet community perception is that it is a common occurrence, likely because of the role mass media play when they discover an excessive force story.²⁸ Albert Reiss found that police

²⁷ Samuel Walker, "Popular Justice: A History of American Criminal Justice," *Michigan Law Review* 79 (1980): 4.

²⁸ Albert J. Reiss, "Police Brutality-Answers to Key Questions," *Society* 5, no. 8 (1968): 10-19.

officers used “undue force” in only 37 of 3,826 observed police encounters. This represented a rate of 5.9 for every 1,000 white citizens and 2.8 for every 1,000 black citizens. The New York City Civilian Complaint Review Board reported citizen complaints at rates ranging from a high of five per 10,000 to a low of one per 10,000 documented encounters between officers and citizens, depending on the neighborhood.²⁹

These data suggest that excessive force is a statistically rare event. Reiss, however, pointed out that the effects of police abuse accumulates over time, creating the perception of general police harassment.³⁰ Consider also not only the probable existence of greater generational bias during this study as this was observed and analyzed almost a half century ago, but the markedly greater concern nowadays about police use of force and of the pervasive desire to prevent harassment, torture during interrogation, and illegal killings.³¹ More recently, the Bureau of Justice Statistics at the U.S. Department of Justice found that use of force incidents declined from 664,000 in 2002 to 574,000 in 2008. During that same time, use of force incidents reported by African Americans declined from 173,000 to 130,000.³²

²⁹ “Fighting Police Abuse: A Community Action Manual,” *American Civil Liberties Union*, accessed October 9, 2015, <https://www.aclu.org/fighting-police-abuse-community-action-manual>.

³⁰ Albert J. Reiss, *The Police and the Public*, vol. 39 (New Haven: Yale University Press, 1973), 151, <https://books.google.com/books?hl=en&lr=&id=2ErEylE6PUgC&oi=fnd&pg=PR10&dq=The+Police+and+the+Public&ots=tGvKLmmbxX&sig=uvvYCRbuv84UP40CZLokIAHE8nQ>.

³¹ Samuel Walker and Vic W. Bumphus, “The Effectiveness of Civilian Review: Observations on Recent Trends and New Issues Regarding the Civilian Review of the Police,” *American Journal of Police* 11 (1992): 11.

³² Christine Eith and Matthew R. Durose, “Contacts between Police and the Public, 2008,” *Washington, DC*, 2011, <http://bjs.gov/content/pub/pdf/cpp08.pdf>.

Despite the lack of good data nationally on lethal use of force, one indicator might be the number of shooting incidents recorded every year by the New York Police Department. NYPD officers decreased their shooting incidents dramatically, from 810 in 1971 to 81 in 2013.³³

In a recent report from a police department in Rialto, California, the agency reported use of force in approximately 1.46 of every thousand police-citizen encounters and seven citizen complaints filed per thousand encounters before the implementation of BWCs³⁴ in a jurisdiction with crime rates about fifty percent above the national average as of 2012. Consider also data from the website KilledByPolice.net,³⁵ which estimates from news aggregations that about 1100 Americans were killed by police in 2014. Data aggregated and reported by the FBI concerning officer-involved shootings are considered underestimated since reporting by departments is voluntary (the death of Eric Garner in New York is an example of an officially unreported case).³⁶ Whether the apparent rise in lethal force incidents is real, or an effect of more reporting by departments, is unclear according to criminologist Samuel Walker.³⁷ Other sociologists contend the number is still

³³ “Annual Firearms Discharge Report from the New York Police Department,” 45–51, accessed October 9, 2015, <http://www.nytimes.com/interactive/2013/11/20/nyregion/20shooting-report.html>.

³⁴ Barak Ariel, William A. Farrar, and Alex Sutherland, “The Effect of Police Body-Worn Cameras on Use of Force and Citizens’ Complaints against the Police: A Randomized Controlled Trial,” *Journal of Quantitative Criminology* 31, no. 3 (2014): 509–535.

³⁵ “Number of Citizens Killed by Police,” January 1, 2015, KilledByPolice.net.

³⁶ “The FBI Is Trying to Get Better Data on Police Killings: Here’s What We Know Now,” *Vox*, accessed October 9, 2015, <http://www.vox.com/2014/8/21/6051043/how-many-people-killed-police-statistics-homicide-official-black>.

³⁷ Walker and Bumphus, “Effectiveness of Civilian Review.”

significantly under-reported.³⁸ The *Manchester Guardian* estimates police killings for the first eight months of 2015 to be approximately 782.³⁹ African Americans make up 29% of those killed (with 13% of the population), Latinos make up 14%, and whites are estimated to be 50%.⁴⁰ As far as can be determined, blacks were twice as likely to be unarmed when killed as were whites. The rate of police killings per hundred thousand citizens varies greatly from state to state by as much as a factor of twenty. Twenty-nine percent of those killed in lethal force incidents were considered mentally ill from available information. The number of those killed by police in the line of duty may be as high as two thousand.⁴¹ This rate is ten times that which occurs in any European country.⁴²

Other reports find the excessive use of force and the perception thereof (whether appropriate or warranted by the public) to be one of the most serious problems.⁴³ Despite various internal and external controls, inappropriate and excessive force by police has been an ongoing major problem in many countries. For example, a 1998 international report on police brutality in the United States found that: “[p]olice abuse remains one of the most serious and divisive human rights violations in the United States. The excessive use of force by police officers, including unjustified shootings, severe beatings, fatal chokings,

³⁸ Richard R. Johnson, “Officer Firearms Assaults at Domestic Violence Calls: A Descriptive Analysis,” *Police Journal* 81, no. 1 (2008): 25–45.

³⁹ Jon Swaine et al., “The Counted: People Killed by Police in the United States in 2015 – Interactive,” *The Guardian*, June 1, 2015, <http://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database>.

⁴⁰ Ibid.

⁴¹ “Number of Citizens Killed by Police.”

⁴² Swaine et al., “The Counted.”

⁴³ Tim Prenzler, Louise Porter, and Geoffrey P. Alpert, “Reducing Police Use of Force: Case Studies and Prospects,” *Aggression and Violent Behavior* 18, no. 2 (2013): 344.

and rough treatment, persists because overwhelming barriers to accountability make it possible for officers who commit human rights violations to escape due punishment and often to repeat their offenses.”⁴⁴

The use of consent decrees to address this issue in the wake of the Rodney King incident seems to be working in the face of a previously intractable problem and is a valuable tool that can be used to correct systemic problems. However, consent decrees are not the best tool to address individual officer issues (bad apples).

One of the most difficult challenges faced by police managers to effect in an agency “is to decrease the use of force, for it is here that protective routines are most firmly entrenched, and deep concerns for officer safety dominate other priorities.”⁴⁵ The Kennedy School report *Policing Los Angeles under a Consent Decree: The Dynamics of Change at the LAPD* found that “an impressive decline in the use of force in the Los Angeles Police Department has occurred under the consent decree.”⁴⁶ Years before the Rodney King incident, researchers studying the Metro-Dade Police department as participant-observers found that out of 502 officer work shifts there were 1148 potentially violent situations, or almost 2 per shift.⁴⁷ The researchers also broke down what kinds of situations and engagements were likely to lead to use of force, as well as how encounters escalated where police responded with force. Their conclusions helped to design a three-day training

⁴⁴ Human Rights Watch, “Shielded from Justice: Police Brutality and Accountability in the United States,” *Human Rights Watch*, New York, Washington, London, Brussels, 1998.

⁴⁵ Christopher Stone, Todd S. Foglesong, and Christine M. Cole, *Policing Los Angeles under a Consent Decree: The Dynamics of Change at the LAPD* (Harvard Kennedy School, 2009), 40, <http://watch-command-1142464325.us-east-1.elb.amazonaws.com/assets/pdf/Harvard-LAPD%20Study.pdf>.

⁴⁶ Ibid.

⁴⁷ Prenzler, Porter, and Alpert, “Reducing Police Use of Force,” 346–347.

program centered on simulations, with hired actors role-playing situations with a potential to escalate into violence. This training program was supplemented by lectures and videos depicting real cases where use of force occurred.⁴⁸

Even as use of force incidents have tended to decline over time, the Rodney King video footage showed how the presentation and publicizing of one incident can change perceptions about policing all over the country. For purpose of analysis, the introduction and widespread use of camera surveillance made problematizing excessive police force possible. Even the elder President Bush registered shock at the Rodney King footage, implying implicit prior ignorance of how prevalent excessive use of force could be under the LAPD police culture. The rapidly improving technology (now a good camcorder in every mobile phone) has led to a public culture of activists recording and presenting their narratives as vigilantes against possible police injustice and brutality. The result is a “new visibility” for the police that promises the ability of antagonistic activists to manage their public image, and that if not answered may undermine police legitimacy.⁴⁹

There is evidence that collective and individual alienation is both a precursor and a pre-condition to uprisings and unrest as a particular social group experiencing or sensing oppression. Oppression also promotes empowerment through awareness. When expectations rise in a group for relief and redress of grievances are not met, that can spark rebellion or mass violence.⁵⁰ Whether or not police use of force is on a downward trend

⁴⁸ Ibid., 347.

⁴⁹ Andrew John Goldsmith, “Policing’s New Visibility,” *British Journal of Criminology*, June 25, 2010, 931–933, doi:10.1093/bjc/azq033.

⁵⁰ Ted Robert Gurr, “Why Men Rebel Princeton,” *NJ, Published for the Center of International Studies*, 1970.

over the past few decades, the perception that is it not through the emphasis on a few recorded brutal incidents is what may ultimately guide the outbreak of riot and social unrest. Witness the apparently racially motivated killing of a Houston deputy sheriff following an anti-police rally in St. Paul.⁵¹ As the deaths of Freddie Gray in Baltimore and Eric Garner in New York remain in the collective consciousness of African Americans, a sense of frustration, anger, and disengagement may become intensified and increase the vicious cycle of hostility and suspicion between police and African-American citizens.

The escalation of publicity and frustration surrounding these deaths seems to correlate with the discussion of BWCs and their approval among police. One popular narrative put out about perceived police brutality and illegal violence is Rob Hustle's hip-hop video "Call the Cops."⁵² Hustle's protest lyrics are weaved together against a backdrop of visual references of officers using force against citizens, and gives the undue impression of police brutality. Even in a nation of three hundred thirty million people (with over forty million African Americans) the number of justified police killings seems almost trivially small compared to the total number of murders, yet the police brutality narrative reflects the perception that many communities feel singled out and targeted by police. That frustration can coalesce and be expressed and amplified by social media. Following the foundational work of the French sociologist Emile Durkheim, we must note that broadly considered, societies do not discover moral and criminal deviance. They define and police it by establishing whatever norms are needed to produce a moral order that criminalizes

⁵¹ "Texas Sheriff Announces Arrest in Deputy's Death - CNN.com," CNN, accessed October 9, 2015, <http://www.cnn.com/2015/08/29/us/texas-sheriffs-deputy-shot-gas-station/index.html>.

⁵² Rob Hustle, *Call the Cops - Rob Hustle Ft. Bump*, accessed October 8, 2015, <https://www.youtube.com/watch?v=IIY9C6pzxKc>.

and sanctions at least some behavior.⁵³ Crime as defined by society reflects broader collective tendencies (as does the prevalence of suicide as Durkheim tries to show in his famous study of that social phenomenon). African American communities have a higher rate in almost every type of criminal activity, even as crime is in a long-term decline. Does this reflect legitimate social dysfunction, or do the police who target black neighborhoods (in order to conduct pro-active policing) define and help create what they also monitor and enforce? Way and Patten's research on policing in two large U.S. municipalities is a sociological assertion that Durkheim was right about the collective definition and enforcement of deviance, but here with a notoriously tragic American tinge.⁵⁴ As these communities continue to feel monitored and harassed, will the use of BWCs just increase this feeling and the resultant feelings of alienation and marginalization? Especially if these BWC videos become public record and social media eventually abounds with African-American centric police encounters? If citizens in those communities feel observed and monitored, will that finally destroy any residual human feeling and benevolence in such interactions, to the detriment of effective policing? How BWCs might be used to restore or lessen public trust of the police will be a consideration, and focus of subsequent analysis.

⁵³ Emile Durkheim, *Durkheim: The Rules of Sociological Method: And Selected Texts on Sociology and Its Method* (New York: Palgrave Macmillan, 2013), <https://books.google.com/books?hl=en&lr=&id=308dBQAAQBAJ&oi=fnd&pg=PP1&dq=The+Rules+of+Sociological+Method&ots=CvZrulDZS9&sig=P0UYx0EnJY3wCBNv0JloDOFgnag>.

⁵⁴ Way and Patten, *Hunting for Dirtbags*.

Chapter III

Arguments for and against BWCs

Before looking at the problems BWCs are meant to address, it is useful to start with the arguments for and against the adoption of BWCs. A review of the arguments is also useful as an introduction itself to those problems. One caveat that must be shared is that the mere popularity among police and citizens for BWCs is not sufficient proof that they are going to be effective for their stated purpose. Researchers and police must be mindful of the possible disadvantages of BWCs, as well as what evidence must be gathered to both confirm and disconfirm the alleged advantages so as to eliminate bias in these research questions.

Undoubtedly, BWCs are the wave of the future. Among the police departments that use body-worn cameras, “there is an overall perception that the cameras provide a useful tool for law enforcement. For these agencies, the perceived benefits that body-worn cameras offer—capturing a video recording of critical incidents and encounters with the public, strengthening police accountability, and providing a valuable new type of evidence—largely outweigh the potential drawbacks.”⁵⁵ For example, Chief Superintendent Stephen Cullen of the New South Wales (Australia) Police Force said, “After testing out body-worn cameras, we were convinced that it was the way of the future for policing.”⁵⁶ There is an inherency argument to be made for the adoption of BWCs in

⁵⁵ “Implementing a Body-Worn Camera Program,” 17.

⁵⁶ Ibid.

routine field policing simply because their adoption is so overwhelmingly favored that their preference itself is an argument. If somehow BWC programs were not adopted, despite what seems to be such strong preferment, that might result in various problems if officers and citizens persisted for the acquisition of BWCs. This is a very real practical concern even if not a typical policy argument. It is important to include the caveat that even with this increased use and media attention, there is not that much scientific research on how police perceive BWCs and their use.⁵⁷ However, one survey found that over 62% of officers believed that BWCs should be adopted and had a positive impression of them.⁵⁸ This sentiment is increasing as there is public controversy of how, when, and why police use force and whether its use is racially motivated. A randomized experiment conducted at the Orlando Police Department (OPD) found that about 3% of officers believe BWCs would affect their own use of force but that over 30% believe their adoption would decrease both internal and external (citizen) complaints and would also reduce overall use of force (apparently from an increase in pro-social behavior from citizens).⁵⁹

⁵⁷ Wesley G. Jennings, Lorie A. Fridell, and Mathew D. Lynch, "Cops and Cameras: Officer Perceptions of the Use of Body-Worn Cameras in Law Enforcement," *Journal of Criminal Justice* 42, no. 6 (2014): 549.

⁵⁸ *Ibid.*, 551.

⁵⁹ *Ibid.*, 555.

Effect on Use of Force

The emerging evidence from controlled test studies is that BWCs dramatically reduce the number of incidents of the use of force as well as citizen complaints. An experiment in Albuquerque found that effect to be so large for complaints that researchers were unable to compute a treatment effect as they had intended since the total decrease was of such a large magnitude there were not enough complaint incidents to render the statistical analysis meaningful – there were 28 complaints filed in the calendar year before the trial and only 3 complaints filed during the experiment. That is an incidence of 0.70 complaints per thousand officer-citizen contacts before BWCs versus 0.069 per thousand officer-citizen contacts after BWCs.⁶⁰ Police work shifts without BWCs had twice as many incidents of use of force as such shifts with BWCs in place. Researchers in this trial also determined that the global rate of use of force incidents per thousand contacts went down by 2.5 times compared to the calendar year before the the experiment.⁶¹

A concomitant advantage to such a reduction in both real use of force incidents and complaints, is the decrease in paperwork and investigations by internal affairs. Such bureaucratic work tends (unjustly or not) to discourage further enforcement. A 2003 survey of LAPD officers found that 70% of officers surveyed agreed with “paperwork deters officers from making arrests,” and 79% thought that the DOJ consent decree hampered the ability of the LAPD to fight crime. 89% believed that “because of fear of being unfairly disciplined, many LAPD officers are not proactive in doing their jobs.” 93% said they believed that “the threat of community complaints prevents police officers from being

⁶⁰ Farrar and Ariel, “Self-Awareness to Being Watched and Socially-Desirable Behavior,” 8.

⁶¹ Ibid., 8.

proactive on the street.”⁶² Obviously the potential improvement in police morale would be great if BWCs have even a portion of the effect that trials have shown they might have, which would greatly improve morale and improve community relations.

Effect on Intelligence Gathering

One possible drawback of BWCs is that their use could possibly hinder or stifle intelligence gathering. Some police chiefs state that the use of BWCs has actually harmed their ability to conduct intelligence-gathering activities and that this is especially the case when police do not have discretion about when they can turn off the BWC. Oakland Police Chief Sean Whent elaborated that their policy is to record all detentions of citizens and to maintain video recording until the end of the encounter. In some cases, where a suspect is detained and asked to provide information, suspects are discouraged to cooperate once they realize that the officer is recording the encounter. The officer is in a conundrum because if they turn off the BWC the suspect will cooperate, but then the officer is likely to be investigated by internal affairs. Chief Whent stated that his department was considering allowing officers discretion in such circumstances by allowing the BWC to be turned off. According to Lieutenant Harold Rankin with the Mesa Police Department in Arizona, they too experienced the stifling effect BWCs can have on information-gathering. Rankin observed that citizens were noticeably more hesitant to volunteer information or even respond to questions once they knew the BWC was recording them.⁶³

⁶² Stone, Foglesong, and Cole, *Policing Los Angeles under a Consent Degree*, 27.

⁶³ “Implementing a Body-Worn Camera Program,” 32.

Privacy Considerations

An ACLU report raised concerns about BWCs use in terms of the conflict between the need to protect against invasion of privacy versus promoting transparency and accountability. Their analysis cautiously endorses “a win-win—but only if they are deployed within a framework of strong policies to ensure they protect the public without becoming yet another system for routine surveillance of the public, and maintain public confidence in the integrity of those privacy protections. Without such a framework, their accountability benefits would not exceed their privacy risks.”⁶⁴

Similarly, the Police Executive Research Forum warns that “once a BWC program is started it will be almost impossible to scale it back: The decision to implement body-worn cameras should not be entered into lightly. Once an agency goes down the road of deploying body-worn cameras—and once the public comes to expect the availability of video records—it will become increasingly difficult to have second thoughts or to scale back a body-worn camera program.”⁶⁵ Many police encounters are already recorded, but BWCs will capture the event from the officer’s perspective. “In addition, given that police now operate in a world in which anyone with a cell phone camera can record a police encounter, body-worn cameras help police departments have their own record of the encounter and do not have to wait for the citizen to post it to the internet.”⁶⁶ Scott Greenwood of the American Civil Liberties Union said that a typical field encounter in an

⁶⁴ Jay Stanley, *Police Body-Mounted Cameras: With Right Policies in Place, a Win for All* (New York: ACLU, 2013), <http://69.55.226.8/sites/default/files/attachments/police-body-mounted-cameras-stanley.pdf>.

⁶⁵ “Implementing a Body-Worn Camera Program,” 7.

⁶⁶ *Ibid.*, 1.

urban area is already recorded numerous times by citizens, businesses, and government anti-crime cameras.⁶⁷ Therefore, recording the event from the law enforcement officer's perspective is even more imperative.⁶⁸

The Police Executive Research Forum (PERF) believes full-time recording can cause community friction. Police officers need to have appropriate discretion on when to record, otherwise BWCs would “undermine community members’ privacy rights and damage important police-community relationships.”⁶⁹ PERF determined that there exists some delicate situations including interviews with traumatized victims of crimes as well as hesitant witnesses. There is also a need to recognize that there is such a thing as non-professional interactions that can be characterized as social and friendly – these suggest that officers be given some measure of discretion on deciding whether to record or not, and that typically the professionalism of officers can be trusted in such circumstances. These policy considerations should be specified and explained to officers. Additionally, ACLU policy analyst Jay Stanley points out that though the ACLU has advocated for total recording because it provides for complete transparency, he admits that few police departments are willing to implement such a policy.⁷⁰ There is also the potential legal difficulty that in some jurisdictions such as Washington and Minnesota all such recorded footage would fall under state open-records laws, raising not just the practical concerns

⁶⁷ Stanley, *Police Body-Mounted Cameras*.

⁶⁸ “Implementing a Body-Worn Camera Program,” 13.

⁶⁹ *Ibid.*, 12.

⁷⁰ Stanley, *Police Body-Mounted Cameras*.

such as how to handle massive data requests, but also how to protect privacy interests. These concerns need to be worked out in appropriate state legislation.

Consistency of Use

Consistency of use by police is also an important policy consideration. Cameras can be something of a Catch-22. If an officer inadvertently forgets to turn the camera on, it will create doubt about the officer's integrity, especially after a use of force incident or incident that generates a citizen complaint. An illustrative example of this problem was when only part of the arrest of Josh Lawson, 23, and Christopher Franklin, 22, on November 16, 2010 was captured by the officer's in-car camera. The entire arrest should have been captured on the video but instead was not. Investigators were unsure why the officer failed to turn the camera on. None of the released footage shows the officer in the moments before he made the stop or kicked Lawson.⁷¹ Here the in-car camera was supposed to improve the transparency for the officer's actions and instead created doubts and uncertainties. Guidelines for when police turn on their BWC as well as when they must inform citizens they are being recorded are vital.

BWCs Encourage Pro-Social Behavior

One of the major arguments for BWCs is when both parties know that the encounter is being recorded, they will tend to exhibit pro-social behavior. As Farrar recently noted,

⁷¹ "Cop on Tape: 'I'm Going to Make Stuff Up'," *ABC News*, February 15, 2012, <http://abcnews.go.com/US/seattle-arrest-questions-cops-dash-cams/story?id=15595576>.

people generally conform to social rules if they believe someone is watching.⁷² Several lines of research across a number of social science disciplines demonstrate that most species of higher mammals change their behaviors once they believe they are being watched. In humans, a large and robust corpus of evidence on perceived social-surveillance and its effect on self-awareness and how that brings forth socially desirable behavior, demonstrates people follow social norms and adjust their behavior accordingly because of the perception that someone else is observing them and evaluating what they do. The phenomenon of public self-awareness makes us much more likely to engage in socially approved actions and creates a greater incentive and need to cooperate with authority and social norms.⁷³ This can be generalized to the perceived presence of authority in an area. Braga, Papachristos, and Hureau performed a meta-analysis of available data from over twenty-five situations where police concentrated their patrolling on areas considered hotspots for crime.⁷⁴ As this heightened awareness of the perceived certainty of arrest for crimes increased, it was found that crimes reported dramatically decreased at these experimental areas of police presence. Similar effects were reported in the findings of psychological experiments, such as the awareness of a pair of eyes watching someone or when subjects felt a heightened sense of self-consciousness because of the presence of mirrors.⁷⁵ There are thus strong theoretical and empirical underpinnings from research that

⁷² Farrar and Ariel, “Self-Awareness to Being Watched and Socially-Desirable Behavior,” 3.

⁷³ *Ibid.*, 2.

⁷⁴ Anthony Braga, Andrew Papachristos, and David Hureau, “Hot Spots Policing Effects on Crime,” *Campbell Systematic Reviews* 8, no. 8 (2012): 1–96.

⁷⁵ Farrar and Ariel, “Self-Awareness to Being Watched and Socially-Desirable Behavior,” 3.

awareness of other people watching causes people to follow the norms they think apply to the situation, whether they are the officer or the citizen in a law enforcement encounter.

BWC video footage has obvious great potential to refute and deter unfounded citizen complaints. Many law enforcement agencies have discovered that when they possess video of an encounter, unscrupulous citizens will often admit if they lied to police or they will retract unfounded complaints. Police Chief Miller of Topeka stated that when people come in with the disguised motive to file a false complaint against an officer and are shown the recorded video footage, “they literally turn and walk back out.” Police Chief Frazier of Surprise, Arizona relayed another such experience where the video completely refuted a complaint of racial profiling. After viewing the recording, the complainants confessed they had in fact never been treated unfairly by officers in that department and left. This technology has the potential to save a significant amount of time and money on lengthy investigations and litigation.⁷⁶

Police officers also find that their own awareness of being recorded leads to less reckless behavior and a stricter following of procedure, particularly when BWCs are given to younger officers who already receive a disproportionate number of citizen complaints. Footage is also useful for ongoing training and feedback for officers as well as helpful in improving general training programs by identifying problem areas. BWC footage also seems to dramatically improve crime scene evidence gathering and the taking of witness statements, particularly with respect to domestic violence complaints.⁷⁷

⁷⁶ “Implementing a Body-Worn Camera Program,” 18.

⁷⁷ Ibid., 20–22.

Citizens confronted during consensual encounters may require that the officer have the discretion to turn-off the BWC as a gesture of goodwill and trust, and may lead to improved community policing. Another guideline should be that an officer should always answer truthfully if a citizen asks if an encounter is being recorded (excluding undercover operations). Such a gesture would ensure trust and make the police seem less of a human tool of surveillance. The ACLU's call for total recording may unwittingly worsen police-citizen relations by reinforcing such a militaristic, surveillance oriented mode of policing.

It should also be noted that lessening all uses of force, both legal and excessive, is a major goal to be achieved in improving relations between police departments and the communities they serve. BWCs help in this endeavor because officers and citizens will be more aware of expanded surveillance and thus more incentivized to deescalate the situation before force is used.

BWCs Can Save Money

Typically, when an officer is found guilty of excessive force his or her agency pays the judgment. If BWCs can reduce or eliminate the use of force during some encounters, then those contacts are less susceptible to excessive force claims. Rialto Police found this very conclusion. During their study, they found that BWCs can save \$4 in civil litigation for every \$1 spent on the camera system. Rialto concluded this was because there were 21 fewer allegations of excessive force for BWC equipped officers, and historically those complaints would have cost the agency approximately \$400,000 in the aggregate.⁷⁸ In order

⁷⁸ Ariel, Farrar, and Sutherland, "The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints against the Police."

to give some context and perspective regarding such savings, the entire cost for the Rialto Police to buy the BWCs was slightly more than \$90,000. This included 70 complete video camera units and mounts (along with spares), charging equipment, video management software, data upload, tracking systems, and training for technicians and officers. Finally, one should also weigh the probability that if complaints from members of the public are reliable proxies and closely correlated with use-of-force incidents (which seems a reasonable assumption), then a large number of citizen complaints should also be viewed as proof of a tenuous relationship between police and the community.⁷⁹

De-Policing

Some observers say that BWCs cause “de-policing” or cause officers to hesitate before taking enforcement actions, often to the detriment to the community or officer safety. In particular, some have expressed that BWCs will make officers more hesitant to use force when it is required or the BWC will create situations where police unsafely allow a citizen to escalate their attack posture, and the officer will only react unless it is absolutely necessary or too late. In other words, officers will be so overly conscious that the encounter is being recorded that they will delay using lawful force to protect themselves. Some officers have stated that they would resolve this conflict by simply not engaging suspected criminals, a process known as de-policing. It has been noted that in every instance where the U.S. Department of Justice has brought about a consent decree to address an alleged pattern and practice of police misconduct, concerns have subsequently been raised that the

⁷⁹ Eugene P. Ramirez, *A Report on Body Worn Cameras* (Public Agency Risk Sharing Authority of California, 2014), 10, http://www.parsac.org/parsac-www/pdf/Bulletins/14-005_Report_BODY_WORN_CAMERAS.pdf.

consent decree would lead to or did in fact lead to de-policing, or what some police term the “drive-and-wave syndrome.”⁸⁰

It may be feared by some officers that BWCs may override the vaunted code of silence and street practice of agreeing on a consensus version of events to protect fellow officers. The recent case in Cincinnati is illustrative, where officers wearing BWCs, allegedly made comments and used non-verbal signals in order to fabricate material facts about the shooting.⁸¹ This is a poignant example where officer’s discretion about when they could turn off cameras must be sufficiently curtailed. But for officers the message should be clear; ubiquitous recording exists, and therefore it is imperative to conduct operations per the law and Constitution.

There is preliminary evidence from Mesa Police that officers wearing BWCs inexplicably allowed suspects to attack them first in every recorded instance, therefore putting officers at a decisive disadvantage (reaction is always slower than action). Officers that did not have BWCs were attacked thirteen out of seventeen times.⁸² These data are not conclusive, and importantly there was a large decline of all force used by officers and suspects when BWCs were used.

BWCs and Marginalized Communities

⁸⁰ Stone, Foglesong, and Cole, *Policing Los Angeles under a Consent Degree*, 27.

⁸¹ Stahl, “New Body Cam Videos Show Cops Coalescing around False Narrative of Sam DuBose Killing.”

⁸² Farrar and Ariel, “Self-Awareness to Being Watched and Socially-Desirable Behavior,” 9–11.

Another dimension that is explored is whether BWCs may reduce unwarranted force against African Americans. Researchers have asked whether officers are prone to use excessive force disproportionately and prematurely on African-American citizens.⁸³ Research findings by some psychologists and criminologists several years ago seemed to confirm that there is a widely perceived police bias against minorities when it comes to use of force.⁸⁴ Simulation studies performed at the University of Colorado and the University of Chicago found that when students had to make a quick shooting simulation decision, white college students got slightly higher (but statistically significant) lethal shooting error rates with unarmed African American suspects- 1.45 per 20 computer trials, as opposed to an error rate of 1.23 for unarmed white suspects.⁸⁵ In 2005 these results were replicated with a group of Florida police officers who also shot somewhat more unarmed black suspects in simulations than they did unarmed whites, but significantly less than the students had. The research also found a definite and increasing correlation between the amount of training and the ability to correct and avoid for apparent racial bias in the officers' shooting decision.⁸⁶

A more definitive answer may come from an innovative study at Washington State that found police are actually 25 times less likely to shoot unarmed black suspects than

⁸³ Rod K. Brunson, "'Police Don't Like Black People': African-American Young Men's Accumulated Police Experiences*," *Criminology & Public Policy* 6, no. 1 (February 1, 2007): 71–101, doi:10.1111/j.1745-9133.2007.00423.x.

⁸⁴ Ronald Weitzer and Steven A. Tuch, "Race and Perceptions of Police Misconduct," *Social Problems* 51, no. 3 (August 1, 2004): 305–325, doi:10.1525/sp.2004.51.3.305.

⁸⁵ Joshua Correll et al., "The Police Officer's Dilemma: Using Ethnicity to Disambiguate Potentially Threatening Individuals.," *Journal of Personality and Social Psychology* 83, no. 6 (2002): 1314.

⁸⁶ E. Ashby Plant and B. Michelle Peruche, "The Consequences of Race for Police Officers' Responses to Criminal Suspects," *Psychological Science* 16, no. 3 (2005): 180–183.

unarmed white or Latino suspects. Police officers, military personnel, and civilians all took part in simulations that mirrored as closely as possible complex and often ambiguous situations where a sequence of perceptions, decisions, and actions were required including that of ultimately whether or not to shoot the suspect. These were conducted at the Washington State University Simulated Hazardous Operational Tasks Laboratory, which is “dedicated to analyzing and understanding high-risk operational performance, including police use of deadly force. The laboratory simulators are the type used for training by many law enforcement agencies in the United States and around the world.”⁸⁷ This immersive study was likely more reliable than those previously discussed because it is more realistic and therefore may capture human behavior more accurately.

Controversy over racially motivated police officers in the use of lethal force has so permeated both the general and institutional culture that police are apparently willing to put their lives at risk so as to not make a controversial use of force mistake. It is also noted that this experiment occurred before the ongoing public debate sparked by Oscar Grant and Michael Brown’s deaths. One would suspect that this tendency and apprehension has increased since these results were reported.⁸⁸ It is likely that whatever effect BWCs have on police officers and their decision to use force on minorities, the result will likely be less force, not more.

⁸⁷ Lois James, Bryan Vila, and Kenn Daratha, “Results from Experimental Trials Testing Participant Responses to White, Hispanic and Black Suspects in High-Fidelity Deadly Force Judgment and Decision-Making Simulations,” *Journal of Experimental Criminology* 9, no. 2 (2013): 193.

⁸⁸ *Ibid.*, 189–212.

Chapter IV

Current Mechanisms in Place to Prevent Excessive Force

There are many institutional, legal, and systemic factors currently in place to limit an officer's unjust use of force and to prevent misconduct.

Most agencies have at least one person tasked with reviewing alleged police misconduct and determining whether there was in fact misconduct or illegal behavior by one or more officers. Typically, these units are known as "internal affairs." If the unit is not housed internally, primarily because the agency is too small, then this function is usually performed by a nearby larger agency. It is routine to review excessive force claims against an officer, particularly if there has been a death or substantial bodily harm.⁸⁹

Another mechanism is early warning systems to detect patterns of police misconduct. It is well known that a minority of officers are responsible for a disproportionate number of excessive force incidents. Typically, the culprits are officers that are young and inexperienced, but also include veteran officers who were brought up in a police culture permissive of excessive force.⁹⁰ Therefore it is vital that early warning

⁸⁹ James P. McElvain and Augustine J. Kposowa, "Police Officer Characteristics and Internal Affairs Investigations for Use of Force Allegations," *Journal of Criminal Justice* 32, no. 3 (2004): 265–279.

⁹⁰ Samuel Walker, Geoffrey P. Alpert, and Dennis Jay Kenney, *Early Warning Systems: Responding to the Problem Police Officer* (US Department of Justice, Office of Justice Programs, National Institute of Justice, 2001), <http://zimmer.csufresno.edu/~haralds/Linkpages/reports/earlywarn.pdf>.

systems have the appropriate metrics and are overseen by personnel willing to break the blue code of silence.⁹¹

Police officers must have quality supervision by their superiors. Further, officers must receive appropriate training (like cultural diversity) and must be reminded what are deviations from professional conduct. Early warning systems flag those officers in need of closer supervision because of preset triggers, like excessive complaints or higher-than-average use of force incidents. Still these alerts must be individually investigated since some officer's work assignments may never generate a complaint (e.g., desk job) and others may receive complaints weekly (e.g., strict traffic enforcement unit).

Institutional mechanisms include whether officers receive de-escalation training like Verbal Judo. This training helps officers be mindful of how a use of force situation is developing and how to take advantage of opportunities to defuse it. Verbal Judo trains officers to know the difference between behavior and words that signal danger versus what is merely rude or disrespectful (i.e., lawful conduct). Verbal judo means techniques that can pacify, sidestep, or de-escalate a problem while still maintaining needed professional authority to control citizen encounters.⁹²

Agencies must make good hiring decisions that screen out psychologically unsuitable applicants. Use of psychological screening is a standard technique and must be combined with extensive background checks and oral interviews.

⁹¹ Louise Westmarland, "Police Ethics and Integrity: Breaking the Blue Code of Silence," *Policing and Society* 15, no. 2 (2005): 145–165.

⁹² George J. Thompson, *Verbal Judo: The Gentle Art of Persuasion* (New York: HarperCollins Publishers, 2010).

Good pay and benefits are also necessary to attract and retain good officers. Quality candidates tend to have multiple career options. Agencies must be responsible with tax dollars but part of that calculation is to be generous to officers, so they can afford a decent lifestyle that supports a decent middle-class lifestyle. Otherwise, officers may feel compelled to engage in corruption (bribes or laziness) and this would result in poor police work and distrust by citizens.⁹³

Agency values should also incentivize the retention of professional and productive officers. This means more than carefully formulated mission statements and lists of core organizational values that simply hang on the wall. It means considering which articulated values minimize misconduct as well as agency processes that measures whether the department's metrics accurately reflect adherence to those values.

Citizens need easy access to a complaint process. However, it should be noted that the easier it is to complain about an officer, the theory goes, the more people will ultimately complain. This is definitely a legitimate gripe by frontline officers who are most susceptible to encountering dissatisfied citizens. First, it would be unfair for police managers to focus solely on the complaint process and ignore the commendation process. For example, if an agency offers citizens the opportunity to file a complaint via their agency website, then why should not the agency simultaneously offer the opportunity to file a compliment? Most citizens know they could file a complaint, but how many know they could file a compliment? Fair-minded agencies should advertise both to the public.

⁹³ Bernard D. Rostker, William M. Hix, and Jeremy M. Wilson, *Recruitment and Retention: Lessons for the New Orleans Police Department* (Rand Corporation, 2007), <https://books.google.com/books?hl=en&lr=&id=mDyIDLeCWAUC&oi=fnd&pg=PP1&dq=new+orleans+police+pay+&ots=dcDTFdM-B8&sig=KjRF0toIfh0vNCu851Ps-w2Zz0Q>.

Additionally, officers should take some solace with the implementation of BWCs because they offer an unbiased (though not necessarily accurate) account of the event. If the officer engaged in misconduct and that is confirmed by the BWC, then agency policies and the law will dictate the outcome. Conversely, officers that committed no misconduct should feel relieved that the investigation will be more than “he said, she said” scenario. Finally, it must be emphasized that police managers must be prepared to accept a citizen’s video proffered as showing misconduct, despite what the BWC might or might not show. When the LAPD was given the Rodney King video they failed to take official action against the involved officer, such as starting an internal affairs investigation, and therefore ignored the fact that their officers may have violated King’s rights, and this helped erode public trust.⁹⁴

BWC videos can also provide an agency and officer with training and feedback. Video instruction is a training modality that is particularly effective in modelling good police work as opposed to mere lectures and advice. And many officers find reality-based training particularly useful.

⁹⁴ Skolnick and Fyfe, *Above the Law*, 2–3.

Chapter V

Legal Considerations

Tennessee v. Garner was a 1985 case involving an unarmed juvenile in Memphis, Tennessee who was fleeing an officer after he was suspected of a home burglary and subsequently was shot and killed while trying to escape over a chain linked fence.⁹⁵ Tennessee law at the time authorized an officer to “use all the necessary means to effect the arrest,” including deadly force, even when the suspect posed no particular danger to the officers or others. The Court struck down the statute saying that deadly force should not be allowed in such an instance where there was no danger.

Graham v. Connor concerned a diabetic person who was physically detained for suspicious behavior.⁹⁶ Graham told police he was diabetic and pleaded to be allowed to receive medical treatment. Instead, police believed Graham was simply drunk and denied medical treatment. The ruling by the appeals court was that detention was not done sadistically or maliciously even though the man was indeed in medical distress. The use of force was therefore constitutional. The Supreme Court remanded the case back for further consideration and required that it be interpreted more strictly under the Fourth Amendment to allow for such circumstances under an “objective reasonableness” standard.⁹⁷

⁹⁵ *Tennessee v. Garner*, 105 S. Ct. 1694 (Supreme Court 1985).

⁹⁶ *Graham v. Connor*, 109 S. Ct. 1865 (Supreme Court 1989).

⁹⁷ Howard Rahtz, *Understanding Police Use of Force* (Monsey, NY: Criminal Justice Press, 2003), 32–38, <http://www.ncjrs.gov/App/abstractdb/AbstractDBDetails.aspx?id=201987>.

Title 42 Section 1983 says that if an officer, under color of law, deprives a person of any rights or privileges protected by the Constitution or federal laws, the officer may face fines and imprisonment as penalties. Section 1983 was originally designed to penalize state government officials who deprived former slaves' newfound rights after the Civil War. The law has been invoked by the Department of Justice against police officers several times with limited success.

Still, it should be noted that Section 1983 lawsuits are difficult for plaintiffs to prove, and as such an action must be worthwhile before attorneys will expend their efforts.⁹⁸ Citizen plaintiffs in such lawsuits often face a large asymmetry of financial and legal resources compared to municipal defendants, making it difficult to even find an attorney who will take on such a case. Given such an asymmetrical advantage and the bad publicity from settling such a lawsuit, or encouraging more lawsuits, municipal defendants have an incentive not to settle and to drag such cases out for years. Very often minority plaintiffs and witnesses will not have enough credibility for juries to convict, with Rodney King being the foremost and most notorious example, despite what seemed irrefutable evidence of brutality (LAPD won the state case, but lost the federal trial). Police often invoke a qualified immunity defense that the officer had a reasonable belief that his or her actions were constitutional and that has become a major hurdle for 1983 plaintiffs. Additionally, there are lengthy discovery battles that are exacerbated by protections of officer's individual personnel records.⁹⁹ The deck can seem stacked against these plaintiffs

⁹⁸ Alison L. Patton, "The Endless Cycle of Abuse: Why 42 USC 1983 Is Ineffective in Deterring Police Brutality," *Hastings Law Journal* 44 (1992): 753.

⁹⁹ *Ibid.*

and the result is often that attorneys will only take on the most egregious or open-and-shut type cases.

In 1994, and partially as a result of the Rodney King state acquittal, Congress passed into law Title 42 Section 14141, known as the police misconduct provision of the Violent Crime Control and Law Enforcement Act. This legislation charges the Attorney General with the filing of lawsuits to reform law enforcement agencies believed to be engaged in a pattern or practice of violating federal rights. This legislation also enforces the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964. These latter laws forbid discrimination on the basis of race, color, sex, or national origin by law enforcement agencies receiving federal funds.

Chapter VI

Bureaucratic, Psychological, and Sociological Factors That Contribute to Excessive Force

According to Lersch and Mieczkowski there are three major theoretical perspectives from academic research that have shed light on the causes of excessive force and violent police behavior.¹⁰⁰ These explanations “are summarized as follows: psychological theories that focus on individual officers as “rotten apples”; sociological theories emphasizing a culture of policing as isolated from the non-police citizenry, and organizational approaches investigating what procedural, bureaucratic, and cultural influences and constraints within an organization for managing its members.”¹⁰¹ The researchers conclude that none of these approaches is sufficient by itself as an explanation of why some officers act violently, while most other officers refrain from using excessive force or avoid participating in such incidents.¹⁰²

Younger and relatively inexperienced officers are often the ones involved in use of force incidents. This may be attributable to several factors including the fact that inexperienced officers have not learned how to deal with difficult people and therefore may ineptly escalate their force option because it is the primary method they know. Still, complaints about excessive force are “concentrated among a much smaller subset of ‘problem officers. While younger and inexperienced officers may be assigned to places and

¹⁰⁰ Lersch and Mieczkowski, “Violent Police Behavior.”

¹⁰¹ Ibid.

¹⁰² Ibid.

times that are inherently dangerous, there is evidence that these officers still use more force than their experienced counterparts.”¹⁰³ On the other hand, young and inexperienced female officers are significantly less likely to use force and attract complaints, though it is unclear if this disparity is due to personality dispositions or because suspects refrain from escalating the situation when confronted by a female officer.¹⁰⁴

An officer’s level of education is inversely correlated with his or her use of force. There is some evidence that police departments that have better educated officers have lower incidences of excessive use of force.¹⁰⁵

In terms of the nature and curricula of pre-police education, the police reformer August Vollmer emphasized the importance of a college education before entering law enforcement, rather than mere training, and required his new hires to possess baccalaureate degrees. Vollmer was also the founder of criminal justice as an academic field at the University of California. Vollmer promoted such innovations as police radios, signal boxes, and bicycle patrols. Vollmer emphasized how such technologies could aid in crime prevention rather than mere apprehension of criminals.¹⁰⁶ It would be speculation to assume Vollmer would have supported BWCs, but he likely would have urged careful study of this technology’s potential in stopping crime before it occurs.

¹⁰³ Helen Braithwaite and Neil Brewer, “Differences in the Conflict Resolution Tactics of Male and Female Police Patrol Officers,” *International Journal of Police Science & Management* 1 (1998): 276.

¹⁰⁴ Braithwaite and Brewer, “Differences in the Conflict Resolution Tactics of Male and Female Police Patrol Officers.”

¹⁰⁵ Jason Rydberg and William Terrill, “The Effect of Higher Education on Police Behavior,” *Police Quarterly* 13, no. 1 (2010): 92–120.

¹⁰⁶ Skolnick and Fyfe, *Above the Law*, 174–175.

Realistically, the officer candidate pool is too small for every police agency to require that recruits have a four-year degree. But perhaps a case can be made for broader humanistic and scientific training of officers during the academy to encourage open-mindedness and a willingness to experiment with new technologies and methods. New technologies and methods that lessen the need to use force are sorely needed given the current state of police-community relations in the United States.

Perhaps two relevant quotes here can help frame this discussion of socialization and environmental factors and influences, upon how the use of excessive force takes place within the context of policing:

The difference between the quasi-military and the civil policeman is that the civil policeman should have no enemies. People may be criminals, they may be violent, but they are not enemies to be destroyed. Once that kind of language gets into the police vocabulary, it begins to change attitudes.

—John Alderson, *The Listener*

Identifying the enemy makes us very uncomfortable because the enemy happens to be a great many of us.

—Daryl F. Gates

Focus must also be placed on the environment where police work. Holmes and Smith argue “that neighborhood factors, particularly of minority disadvantage, evoke social psychological processes that result in excessive force responses.”¹⁰⁷ They conclude that a high proportion of racial minorities in a municipality correlates with coercive control, especially when what they term the “place hypothesis” of concentrated residential segregation reinforces that factor. Organizational characteristics of police departments do

¹⁰⁷ Malcolm D. Holmes and Brad W. Smith, “Intergroup Dynamics of Extra-Legal Police Aggression: An Integrated Theory of Race and Place,” *Aggression and Violent Behavior* 17, no. 4 (2012): 344–353.

not seem to be as much a factor in causing police violence as the factor of placement in geographic and racial space in a city.¹⁰⁸

Community policing was discussed by Lersch and Mieczkowski as a strategy to reduce excessive force.¹⁰⁹ This approach forces those on patrol to become more approachable and available within communities so as to foster contact, which can be a powerful corrective to bias and apathy on the part of police officers, thus making for an organizational culture that is less isolated or prone to an occupier's or siege mentality.¹¹⁰

Police are often expected to handle and resolve stressful situations quickly and that can lead to an overreliance on using force as a fast solution. There is a tendency to try to resolve such situations before more bystanders appear or get involved as a mob.¹¹¹ In the 1985 Miami-Dade study by the Police Foundation, the data gathered and conclusions drawn supported this hypothesis by noting how the time taken to handle and move on from possibly violent encounters was overvalued in the departmental and organizational culture.¹¹² There seemed to be a number of situations when individual police could have been more deliberate and inquisitive about a situation and taken time to make a decision without leaping to conclusions so as to not unnecessarily escalate to using force.¹¹³

¹⁰⁸ Brad W. Smith and Malcolm D. Holmes, "Police Use of Excessive Force in Minority Communities: A Test of the Minority Threat, Place, and Community Accountability Hypotheses," *Social Problems* 61, no. 1 (2014): 83–104.

¹⁰⁹ Lersch and Mieczkowski, "Violent Police Behavior."

¹¹⁰ *Ibid.*, 563–564.

¹¹¹ Hans Toch, *Stress in Policing*. (American Psychological Association, 2002), 4–6, <http://psycnet.apa.org/psycinfo/2001-05025-000>.

¹¹² James J. Fyfe, "The Metro-Dade Police/citizen Violence Reduction Project: Final Report," *Washington, DC: Police Foundation*, 1988.

¹¹³ *Ibid.*, 19.

Anecdotal evidence from the author's experience seems to support this insight and how increased deliberation should be emphasized in training. Citizens may be mentally ill, abusing controlled substances, or even in a diabetic or epileptic fit, yet many times the response by police focuses on criminal justice solutions and not community services. Often medical action or calling a relative is preferred to escalation in these circumstances, which is not always immediately evident and take investigation to determine the core underlying problem.¹¹⁴

Miami Dade researchers found their de-escalation techniques worked everywhere except high crime black and Hispanic neighborhoods: The findings were considered positive on the whole, with some variation between the three districts analyzed. Their conclusions go against the idea that the police are automatically heavy handed with minorities. There are environmental and cultural issues outside the control of police, and application of such techniques shows that they work in certain environments more than others. The main findings were summarized as follows:

The effects of the program...were most measurably positive in District C, a largely middle class and suburban community of white Anglos and white Hispanics ... where the major reported crime problem is vehicle larceny, and where violent crime rates were far lower than in either of the other study districts. In District C, we find significant positive change in 24 percent (17) of our 72 comparisons, with significant negative change in only 1.4 percent (1). In District A, where indices of crime and public violence are midway between B and C, 23 percent (17) of the comparisons (73) are positive and significant. In District B, a largely black and Hispanic inner-city area ... marked by high rates of crime and violence, 14 percent (10) are positive and significant, and 14 percent (10) are negative and significant.¹¹⁵

¹¹⁴ Prenzler, Porter, and Alpert, "Reducing Police Use of Force," 347.

¹¹⁵ Fyfe, "The Metro-Dade Police/citizen Violence Reduction Project," 8–9.

Chapter VII

How BWCs Might Affect Police Use of Force and Community Policing

Sir Robert Peel created London's Metropolitan Police Force in 1829 and is known as the father of modern policing. According to Charles Reith, Sir Peel established a "policing philosophy grounded in professionalism, ethics, and strong police community cooperation, which continues to influence policing to this day."¹¹⁶ The "Nine Principles of Policing" were developed by Sir Robert Peel and reflected his "philosophy [to] provide guidance on the role of police and the importance of maintaining strong police community relationships."¹¹⁷ The following Peelian principles are extremely relevant to this discussion of BWC's, and provide guidance about how this technology can affect relationships with members of the community:

Police must recognize always that the power of the police to fulfill their functions and duties is dependent on public approval of their existence, actions and behavior and on their ability to secure and maintain public respect.

Police must recognize always that to secure and maintain the respect and approval of the public means also the securing of the willing cooperation of the public in the task of securing observance of laws.

Police must maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police, the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.¹¹⁸

¹¹⁶ Charles Reith, *The Blind Eye of History: A Study of the Origins of the Present Police Era*, 4th ed., vol. 2 (London, England: Faber & Faber, 1975), 203.

¹¹⁷ Ibid.

¹¹⁸ Reith, *The Blind Eye of History*.

These ideas reflect not just principles of consent and legitimacy in a democratic society, but also what some political theorists have called a civic republican tradition that encourages active citizen participation, education, and community involvement that is not just as useful to such ends as crime fighting, but indeed are desirable goods in and of themselves.¹¹⁹ In a society that can seem to emphasize capitalist or bureaucratic means-end rationality, we can lose sight of this central tradition in European and American political thought.

Remember that for so many citizens, their major encounters with government come when they must deal with a police officer, when they pay their taxes, and when they vote. That means police-citizen encounters may be a woefully understudied and under-theorized aspect of the citizen-government nexus in our society. If BWCs tend to lessen the use of force, whether that force is legitimate or not, that can promote a better version of participation and citizen experience of government as well as making both police and government seem more legitimate and worthy of approval. The downside (or perhaps, the dark side) is the sense that if such a lessening of use of force comes from a heightened sense from either or both police and citizens that they are even more under the eye of Big Brother. This seems less an exercise in legitimacy and more one of expanded surveillance, thus creating more implicit coercion (rather than truly voluntary engagement and compliance from one citizen to another).

¹¹⁹ Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 2013), https://books.google.com/books?hl=en&lr=&id=ARBJAgAAQBAJ&oi=fnd&pg=PR5&dq=The+Human+Condition&ots=dDhuoJOwYA&sig=LEhToQTNuI7cI0U_5Q71L63wQD4.

Data from in-car cameras versus those from BWCs show that police attitudes toward each are quite different, which highlights the fundamental difference between these two technologies. One is intimate whereas the other detached. The International Association of Chiefs of Police surveyed officers about their perceptions of in-car cameras after they had experience with them. “One-third of the officers reported that they felt safer as a result of the in-car cameras.”¹²⁰ Michael D. White wrote about this study: Most of the officers (70%) reported that the in-car cameras had little or no impact on their behavior and higher percentages reported that the in-car cameras had no effect on how they handled incidents (86%) and their decisions to use force (89%). Much of the information reported on police officer perceptions of body-worn cameras is comparatively sparse.”¹²¹ The primary studies for BWCs include the California and Arizona studies described previously. According to White: “Four in five (77%) of the Mesa, Arizona officers surveyed prior to implementation believed the body-worn cameras would cause them to behave more professionally, yet only 23% indicated that the department should adopt body-worn cameras for all officers.”¹²² The Phoenix (Arizona) police officers indicated “ambivalent or negative attitudes about the potential impact of body-worn cameras prior to wearing body-worn cameras.”¹²³ Preliminary data are positive regarding BWCs, but like my

¹²⁰ IACP, “Research and Best Practices from the IACP Study on In Car Cameras,” 2001.

¹²¹ Michael D. White, “Police Officer Body-Worn Cameras: Assessing the Evidence,” *Washington, DC: Office of Community Oriented Policing Services*, 2014, <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=270041>.

¹²² Ibid.

¹²³ Ibid.

industry disrupting technologies more research must be conducted before we can understand the full impact BWCs will have on law enforcement.¹²⁴

BWCs Invoke Pro-Social Behavior

People typically adhere to social norms if they know they are being watched. Research in social-psychology shows a progression and causal relation between a perception of surveillance, an awareness of self in response, and finally a shift in behavior toward compliance and stronger adherence to social norms. The perception of who is observing and judging can range from a stranger in a restroom¹²⁵ to God.¹²⁶ That sense of observation and consequent self-awareness leads to a deterrence effect whereby the observed subject anticipates sanctions are more probable for noncompliance to norms.¹²⁷ These findings seem to predict in a preliminary way citizens' perception of and response to BWCs once it becomes known or suspected that BWCs are being used.

Some agencies encourage their officers to inform the public they are being recorded by a BWC. This encourages good behavior on both sides. According to the DOJ report, Police executives “overwhelmingly report that their member agencies experienced a noticeable drop in complaints against officers after deploying body-worn cameras. The

¹²⁴ Jennings, Fridell, and Lynch, “Cops and Cameras,” 550.

¹²⁵ Kristen Munger and Shelby J. Harris, “Effects of an Observer on Hand Washing in a Public Restroom,” *Perceptual and Motor Skills* 69, no. 3 (1989): 733–734.

¹²⁶ Will M. Gervais and Ara Norenzayan, “Like a Camera in the Sky? Thinking about God Increases Public Self-Awareness and Socially Desirable Responding,” *Journal of Experimental Social Psychology* 48, no. 1 (2012): 301–302.

¹²⁷ S. Klepper and D. Nagin, “The Deterrent Effect of Perceived Certainty and Severity of Punishment Revisited,” *Criminology* 27 (1989): 744–745.

mutual awareness of being recorded for potential future watching has a positive effect, and many police chiefs' reported the increase in mutual civility and officer professionalism."¹²⁸

There is a theoretical background to how such recording and observation can defuse and deter excessive force from the officer's standpoint. In a classic study of New York City Police abuse criminologist Paul Chevigny, it was discovered a tripartite dynamic in what led to excessive force in police-citizen encounters.¹²⁹ First the officer perceived a challenge to his or her authority, for example a subject fled from the officer or exhibited verbal disrespect. Sometimes the citizen provoked an officer just by asking the officer questions. If this contemptuous behavior was not effectively curbed, the encounter would progress to the next stage and the officer would label the suspect a "wise guy" (second stage). Subsequent arrest (the third stage) was almost inevitable unless the suspect displayed submission. A physical beating was not unlikely if the suspect continued his contemptuous behavior.¹³⁰ That type of cultural police abuse may be deterred by BWCs.

The BWC must relay conscious cues to a suspect that they are being recorded and the resulting awareness of being watched must be above a certain threshold to encourage pro-social behavior compliance. It is hypothesized that:

[P]ortable cameras would go beyond the limited impact that CCTVs have had on expressive acts of violence in public spaces. CCTV cameras were found to be weak behavior modifiers not because of a flaw in the self-awareness paradigm or the deterrence theory but rather the level of certainty of being accurately depicted in a recording necessary for the self-awareness mechanism to be invoked, which would lead to socially-desirable behavior, is not often high enough in CCTV. Further, CCTV are often surreptitiously mounted and the resultant awareness cues are diminished. If cameras are

¹²⁸ "Implementing a Body-Worn Camera Program," 18.

¹²⁹ Paul Chevigny, *Police Power: Police Abuses in New York City* (New York: Pantheon Books, 1969), 135–136, <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=1800>.

¹³⁰ Chevigny, *Police Power*.

expected to influence behavior and to serve as cues that social norms or legal rules must be followed, then the cue “dosage” of awareness must be significant. BWCs are likely to have this effect because of their proximity to the subject and awareness that the camera’s point-of-view is able to capture an accurate depiction of both the suspect and his or her behavior.¹³¹

If a huge gain in civility and professionalism stemming from an increased mutual awareness of observation and recording by BWCs in police-citizen encounters is likely, it might seem that these findings should do little more than implore the unrestricted use of BWCs. This is not necessarily the case. There has been virtually no research published on the psychological aspects of BWC recording done from a citizen’s point of view.¹³² The arguments and inferences made so far are based only a few trials in the United States and they appear to make a strong causal connection between awareness of BWC use and a concomitant reduction in excessive force and other citizen complaints. Still, there is a serious lack of research in this area and more data are needed to understand how BWCs motivate behavior and compliance. This research is vital because its conclusions can inform and guide the development of policies for BWC use. It is particularly important to gauge whether decreased use of force incidents and complaints come about as a result of better officer behavior and professionalism, or whether from citizen submission and compliance.¹³³ No one has investigated whether a sense of observation and heightened self-awareness might hinder an officers’ judgments and decisions about the legitimate use of force, and whether it makes some officers unsafely hesitant or others aggressively bolder.

¹³¹ Farrar and Ariel, “Self-Awareness to Being Watched and Socially-Desirable Behavior,” 4.

¹³² White, “Police Officer Body-Worn Cameras,” 19–20.

¹³³ *Ibid.*, 21.

Citizens May Not Be Able to Accurately Interpret Police Use of Force

Since BWCs can faithfully record the encounter, that may implicitly lead to an unintended unreasonable restriction on what is considered a reasonable use of force. This is where citizen oversight and transparency can collide with effective and fair standards for policing. High fidelity video recording can lead to what has been called the Hollywood Factor: Police must mimic how cops act on sitcoms, and should resolve high-risk situations similarly, because citizens will judge real life police work against these preconceived notions of effective police work.

With respect to a use of force incident, what is reasonable must take account of natural limitations an officer has in making a real-time decision about what is the appropriate level of force necessary for a given situation. Hollywood rarely considers human limitations when they film police enactments, and instead focus on entertainment and other theatrical licenses. For example, an officer may reasonably believe it was necessary to shoot a suspect until the officer's gun was empty, yet such a hypervigilant reaction is unlikely to make it onto the big screen if for no other reason then it is naturally disturbing to the human conscious and not entertaining to the masses.

Human limitations on perception and mental processing while under stress must be taken into account in determining whether officer behavior was reasonable or not. Psychologists are continuously working to inform such judgments about officer behavior and decisions. Currently many investigations as to whether a force escalation was justified are inconclusive because of a lack of third-party witnesses.¹³⁴ The camera can now act as

¹³⁴ Ibid., 23.

a third-party witness. The danger with the Hollywood Factor is that those who review such footage after a high-profile incident may not apply reasonable standards of interpretation informed by psychology, or applicable case laws. Even before BWCs were invented this occurred, as in the case in 1995 where Officer Kenny Conley was convicted of perjury for stating that he ran past a brutal police beating without seeing it. He was later exonerated when psychologists replicated the incident and demonstrated that most people running in pursuit past such an incident at night would not perceive it due to the phenomenon known as “inattention blindness.”¹³⁵

For example, consider how reviewers of BWC footage after a high-profile incident may react to the use of harsh language or cursing, perhaps making it prejudicial in assessing reasonable police behavior. In reality, police curse because it is a natural stress reaction. Prominent sociolinguistics researcher Steven Pinker stated that the use of taboo words is linked to those neural centers in the right hemisphere of the brain that generate emotional and non-deliberative behavior, whereas areas of the left hemisphere of our brains generate more reasoned and creative use of language.¹³⁶ Swear words stem from our most basic emotions and are almost involuntary reactions to stressful, even primal situations.¹³⁷ They actually seem to serve a useful function in high stress situations by providing emotional

¹³⁵ Christopher Chabris and Daniel Simons, *The Invisible Gorilla: And Other Ways Our Intuitions Deceive Us* (New York: Broadway Books, 2011), https://books.google.com/books?hl=en&lr=&id=VecEbBYC_sEC&oi=fnd&pg=PR11&dq=The+Invisible+Gorilla&ots=2Lh55wKtqu&sig=8bhjfNqcBV1fHYTGgD-sATNuoj4.

¹³⁶ Steven Pinker, “What the F***?,” *New Republic*, October 8, 2007, 2, <http://www.newrepublic.com/article/politics/what-the-f>.

¹³⁷ Timothy Jay, *Why We Curse: A Neuro-Psycho-Social Theory of Speech* (Philadelphia: John Benjamins Publishing, 1999), 51–52, <https://books.google.com/books?hl=en&lr=&id=UcJHAAAAQBAJ&oi=fnd&pg=PR1&dq=Why+We+Curse:+A+Neuro-Psycho-Social+Theory+of+Speech&ots=m9yx9QHGTg&sig=ZLJow6CyYBrjUuaXv6Zer1KVHVY>.

relief.¹³⁸ The use of expletives can be considered an automatic stress reaction, as opposed to language assembled to fit the situation.¹³⁹ Reviewers of use of force incidents captured on BWC footage should keep these factors in mind instead of assuming language is always deliberately used and socio-culturally conditioned.

Additionally, the psychology and physiology of humans involved in using force on another human being is widely misunderstood by the public and even inadequately by many police officers. This deficiency can hinder how reviewers interpret critical incidents and whether they do so in a fair and impartial manner.

These misunderstandings may help explain why the public reacts the way they do when they first observe an apparently controversial use of force, especially when deadly force is used under conditions that did not appear to warrant such force. Yet, when these same cases make their way through the criminal justice system and go to trial, rarely do civilian peers in the jury box find against the police. The reasons for this are likely complex, but surely one reason is deliberation. When citizens view snapshots of controversial police violence during the nightly news, there is no opportunity to hear both sides of the story, hear from experts, and maybe most importantly be given an explanation of what laws are applicable to the situation. In other words, citizens often do not have the opportunity to deliberate and come to a reasonable decision as to what occurred and what did not occur, and whether or not what occurred was lawful under the circumstances.

Take for example a video of a suspect running towards the officer with a knife, and the officer shoots the suspect about twenty feet away. Citizens unversed in human dynamics

¹³⁸ Ibid., 56.

¹³⁹ Ibid., 56–57.

may not understand what physical and physiological factors are at play. Citizens may not understand the effect of “looming,” which is what can occur when a suspect runs at an officer. As the suspect gets closer to the officer, the officer’s visual frame is increasingly occupied by the suspect and gives the impression that the suspect is quickly advancing on the officer and much closer than he or she actually is. Police officers also understand that even after you shoot a suspect multiple times, they are not instantly incapacitated and are still a threat. Combine looming and a suspect who has considerable forward momentum and citizens should better understand why the officer shot multiple times at a relatively long distance.¹⁴⁰

One often repeated citizen reaction when police shoot an armed suspect, especially if the suspect “only” had a knife or was a juvenile, is that the police should have shot the knife (or gun) out of the suspect’s hand or should have only shot the suspect’s legs and therefore likely not killed the suspect. Unfortunately, this too is due to a misunderstanding of human performance under stressful conditions. Officers that use firearms to protect themselves from deadly threats lose most of their fine-motor skills. In order to strike the suspect, especially at night and when the suspect is moving (as is often the case), police must aim for the largest target and that is center-mass, or a person’s chest. Unfortunately, this area is more lethal than striking an appendage. But a policy of shooting a suspect’s extremities in order to only incapacitate may actually result in more inadvertent shootings of bystanders or in the continued assault by the suspect.

¹⁴⁰ D. Regan and A. Vincent, “Visual Processing of Looming and Time to Contact throughout the Visual Field,” *Ophthalmic Literature* 2, no. 49 (1996): 129.

Officers often resort to street-fight type maneuvers. This includes violent strikes to the face, kicks to the chest and even pulling hair. Yet citizens are uncomfortable with this because it does not look professional, or does not fit with the Hollywood-stylized police fight. Combine this with the physiological phenomenon known as “fatigue threshold” where most people can only exert 45-90 seconds of full energy before they are exhausted, and it becomes clear why police officers exert significant aggression when engaged in a physical confrontation.¹⁴¹ Put another way, if an officer does not gain control of a violent subject within that threshold he or she will likely collapse from exhaustion and thereafter become prone to being substantially harmed or even killed.

During and after a critical incident, memory is usually distorted by stress and recalled only in fragments afterwards. Often when an officer gives a verbal recount it may not be accurate even though the officer intends to be truthful. The brain may fill the gap in memory with other “bridge” type memory fragments so that the entire incident is coherent.¹⁴² Discrepancies can easily occur between what the officer recalls and what the BWC recording shows. The officer under investigation may have no recollection of central elements of the use of force incident, or there may be other discrepancies that are not easily explainable. As a consequence, when physical evidence clearly contradicts the officer’s

¹⁴¹ J. Johnson and Violent Police-Violent Business, “Use of Force and The Hollywood Factor,” *Journal of California Law Enforcement* 41, no. 1 (2007): 7.

¹⁴² “New Findings on Shell Ejection Patterns Help Clear Officer on Trial for Murder,” *PoliceOne*, accessed October 8, 2015, <http://www.policeone.com/officer-shootings/articles/94341-New-findings-on-shell-ejection-patterns-help-clear-officer-on-trial-for-murder/>.

recall, citizen observers will immediately come to the conclusion that the officer is lying.¹⁴³

Lewinski explained:

Think of what the camera shows as “the big screen” in a movie theater. Under stress the officer is only able to perceive the part of the movie that you might see if you were watching it through a paper towel tube. ... Someone who doesn’t understand the human dynamics involved may conclude that the officer is lying when he says he wasn’t aware of persons or actions that appear plainly in the camera’s recording and seem to have been in his field of view.

Several studies from the U.S. military, according to Gerhard Krejcirik, show some other odd effects such as a “slow-motion experience while fighting or, in combination with high stress, a deafening effect: the brain fades out any sound to provide more focusing capability... a body camera also cannot provide the ‘real image’ an officer sees because of the human brain’s focus capacity under high stress. Vision narrows to a tunnel view, with the rest of the picture seen as if under foggy conditions. This is not how an audience in court experiences video footage. They comfortably hear and see the whole scene.”¹⁴⁴

Human performance under stressful encounters is not fully understood. Yet, citizens have their own preconceived notions about what is and what is not reasonable force under the circumstances. Often these unreasonable conceptions are never effectively refuted unless there is a formal process that allows for proper deliberation, like a jury trial. Since most citizens that watch a controversial police use of force will never experience such deliberation, it is difficult to determine what effect mass distribution of BWC videos will have on police-community relations. There must be some degree of charity of interpretation

¹⁴³ Bill Lewinski, “Do Head Cameras Always See What You See in a Force Encounter?,” March 10, 2010, <http://www.forcescience.org/fsnews/145.html>.

¹⁴⁴ Gerhard Krejcirik, “Simple Form Helps Officers Expedite Mental Illness Calls,” September 23, 2014, <http://www.forcescience.org/fsnews/267.html>.

of what was reasonable from the perspective of a normal human being also trained as an officer. That is, unless we instead wish to judge people by the ever-increasing capabilities of machines.¹⁴⁵

Event/Video Discrepancies

There has already been issues with video recordings and officers' recollections of an incident being different. As Bill Lewinski explained: "When an officer writes his report, should he write: 1) What he or she actually remembers; 2) What the video depicts happened (basically writing a story of what he/she is watching); or 3) What he or she remembers and then later in the narrative address the discrepancies between the recollection and the video?"¹⁴⁶

This situation can be particularly problematic for an officer, especially when they consider the fallout discrepancies can have during trial. Still, there seems to be no cogent answer except one, the officer should write his or her report based on of their personal recollection (which can be aided by the video), but the officer should not absorb any discrepancies into their official narrative. If an officer recants or changes what he or she believed happened, then that is in essence a lie and therefore is more problematic than simply admitting that the video is an example of how BWCs do not accurately reflect the human experience of a high-stress incident. Still, material discrepancies should be explained at the end of the report.

¹⁴⁵ Lewinski, "Do Head Cameras Always See What You See in a Force Encounter?"

¹⁴⁶ Bill Lewinski, "Readers Respond to Officer-Involved Video Viewing Issues," April 10, 2010, <http://www.forcescience.org/fsnews/147.html>.

Chapter VIII

Legislative Considerations

It is vital for public confidence in BWCs that privacy protections be implemented. Crime victims should not be afraid to call police because they fear their encounter will become public record or prove to be embarrassing if accessed by the general public. Confidence must be instilled by enacting strict privacy laws and protecting BWC videos from unlawful disclosures. For example, BWC servers should not be connected to the Internet.

One legislative proposal would be to “require officers record all encounters with the public. This would require officers to activate their cameras not only during calls for service or other law enforcement-related encounters but also during informal conversations with members of the public (e.g., a person asking an officer for directions or an officer stopping into a store and engaging in casual conversation with the owner).”¹⁴⁷ American Civil Liberties Union (ACLU) has advocated this approach and stated in a report released in October 2013, “If a police department is to place its cameras under officer control, then it must put in place tightly effective means of limiting officers’ ability to choose which encounters to record. That can only take the form of a department-wide policy that mandates that police turn on recording during every interaction with the public.”¹⁴⁸

¹⁴⁷ “Implementing a Body-Worn Camera Program,” 24.

¹⁴⁸ Ibid.

The ACLU goes even further and recommends the total recording requirement have some teeth associated with it. For example, the ACLU would “recommend not only a risk of disciplinary action, but also perhaps an exclusionary rule for any evidence obtained in an unrecorded encounter (for police who have been issued the cameras, unless there is an exigency to justify the failure to record).”¹⁴⁹ The constitutionality of such a recommendation is tenuous at best, and likely would not be applied to federal cases since failure to record would likely never be judged as a Fourth Amendment issue. Still, independent state action could allow such suppression during state cases. According to Matthew Feeney: “Another means of enforcement might be to stipulate that in any instance in which an officer wearing a camera is accused of misconduct, a failure to record that incident would create an evidentiary presumption against the officer.”¹⁵⁰

Judge Thelton Henderson is considered holding officers in contempt of court as new evidence surfaced that some officers were violating departmental rules by turning off, or not turning on, their cameras during required events. Oakland Police is operating under Judge Henderson’s court order and BWCs are one of the stipulations. Officers have been caught turning off the cameras. But because of rigorous union rules it is tough to discipline an officer and that is one reason the judge wants to use his power to enforce compliance.¹⁵¹

¹⁴⁹ Ibid.

¹⁵⁰ Matthew Feeney, “Police Body Cameras Raise Privacy Issues for Cops and the Public,” *Cato Institute*, accessed October 11, 2015, <http://www.cato.org/blog/police-body-cameras-raise-privacy-issues-cops-public>.

¹⁵¹ “A New Way to Punish Oakland Cops?,” *East Bay Express*, accessed October 11, 2015, <http://www.eastbayexpress.com/oakland/a-new-way-to-oakland-cops/Content?oid=3125656>.

The NYC judge who forbade the NYPD's largely indiscriminate "stop and frisk" method of proactive policing also recommended BWCs as one solution.¹⁵²

In some states, officers are required to gain a person's consent before they record them. This law is known as "two-party consent" and it can create challenges for agencies seeking to implement a BWC program. The DOJ Study reported that in many two-party states, police executives have "successfully worked with their state legislatures to have the consent requirement waived for BWCs. For example, in February 2014, Pennsylvania enacted a law waiving the two party consent requirement for police using body-worn cameras."¹⁵³

There is no Supreme Court case that specifically addresses BWC privacy concerns, but the Ninth Circuit has held, "Video surveillance does not in itself violate a reasonable expectation of privacy. Videotaping of suspects in public places, such as banks, does not violate the Fourth Amendment; the police may record what they normally may view with the naked eye."¹⁵⁴ This case may nullify the necessity to abide by a two-party consent law since the act of recording does not invoke the Fourth Amendment. However, this would likely not be the case inside someone's home, or private area of business, especially if the video is later deemed to be public record.

The next privacy issue is when, and under what circumstances, an officer may be allowed to use their BWC inside a person's home (or other highly protected areas, like private areas of a business). Many police departments have "taken the position that officers

¹⁵² *Floyd v. City of New York*, 959 F. Supp. 2d 540 (Dist. Court 2013).

¹⁵³ "Implementing a Body-Worn Camera Program," 8.

¹⁵⁴ *US v. Taketa*, 923 F. 2d 665 (Court of Appeals, 9th Circuit 1991).

have the right to record inside a private home as long as they have a legal right to be there.”¹⁵⁵ For example, if an officer enters a home in response to an emergency, or to serve a search warrant, or even by consent, the officer can record anything they see and hear while within. There is a concern that this footage taken inside a private home may be subject to public disclosure. Deputy Chief of Police William Roseman of Albuquerque described how “this can be particularly problematic in states with broad public disclosure laws. Here in Albuquerque, everything is open to public record unless it is part of an ongoing investigation. So if police come into your house and it is captured on video, and if the video isn’t being used in an investigation, your neighbor can request the footage under the open records act, and we must give it to them.”¹⁵⁶ Scott Greenwood of the ACLU has expressed similar concerns: “An officer might be allowed to go into the residence and record, but that does not mean that everything inside ought to be public record. The warrant is an exception to the Fourth Amendment, not a waiver. We do not want this to show up on YouTube. My next-door neighbor should never be able to view something that happened inside my house without my permission.”¹⁵⁷

Many states have exceptions outlined in their statutes that may exempt BWCs from public disclosure. For example, if the video is part of an ongoing investigation then the video would not be available under a public record’s request. Some state disclosure laws, “such as those in North Carolina, also exempt personnel records from public release. Body-

¹⁵⁵ “Implementing a Body-Worn Camera Program,” 8.

¹⁵⁶ Ibid., 9.

¹⁵⁷ Ibid., 9.

worn camera videos used to monitor officer performance may fall under this type of exception.”¹⁵⁸

¹⁵⁸ Ibid., 17.

Chapter IX

Recommendations and Summary

Excessive force and police misconduct undermine the safety and authority of all police officers. As former Los Angeles County District Attorney Bugliosi said:

[T]here is no question that the Los Angeles Police Department- along with the L.A. County Sheriff's Department. . .- has suffered immeasurably from the conduct of the officers in the Rodney King case. Following the King beating and verdict, anti-LAPD venom is at an all time high: KILL THE LAPD... [is] scrawled on the walls in South Central Los Angeles. So a small percentage of police stain the blue uniform and, by the hostility they create, endanger the lives of thousands of innocent officers.¹⁵⁹

This study is not designed to pinpoint the precise reasons why police engage in excessive force, or even how such brutality can be completely eliminated. As Alison L. Patton wrote: "Police abuse has neither a single cause nor a single cure. It's not 'just' an issue of racism or a lack of training or poor leadership, although all of these can be extremely important factors."¹⁶⁰ A comprehensive approach is needed to end this injustice and it is argued that BWCs provide one of the most important solutions. Most police officers do a good job, with integrity, and without excessive force. But it only takes a few bad apples to ruin the good deeds of the majority.

Fundamentally, change must start at the top, otherwise agencies run the risk of only paying lip service to instituting real change within the department. Police chiefs, sheriffs, and administrators, in Patton's words, set the "tone for their departments in their

¹⁵⁹ Vincent T. Bugliosi, "No Justice, No Peace," *Playboy* 40, no. 2 (1993): 66–68.

¹⁶⁰ Patton, "Endless Cycle of Abuse," 801.

statements, deeds and attitudes toward the communities they serve.”¹⁶¹ Officers will replicate their chief’s attitude and conduct because they know that it is acceptable. When an officer is involved in misconduct, especially one that is high profile, the entire department will watch the reaction of their leader. It is vital that the leader and his or her entire administration react fairly, but swiftly, in condemning obvious misconduct. If not, then ignored behavior can become condoned behavior.

Police organizations are entrenched in history, habits, and culture. They do not change easily and arguably should not since they are engaged in high-stakes activities, and routine change can bring about instability that can affect officer safety. Yet, improvements in police organizations are also necessary. According to Stone, Foglesong, and Cole, like any modern enterprise, “police agencies operate in complex, dynamic environments, requiring their leaders continuously to monitor not only their own organization’s performance, but changes in the contexts within which they work. As new technologies become available, as migration reshapes the communities they police, and as public expectations grow, police leaders must find ways to promote change in their departments while managing the risks of innovation.”¹⁶²

Fortunately, excessive force by police officers is extremely rare. Still, as a democratic society we cannot condone or allow any excessive force because it challenges the authority of the people to be the ultimate arbitrator of what is permissible by their government institutions, and it also degrades the dignity of citizens. Typically, abuse occurs when police develop one of two visions of their mission: One is described by the

¹⁶¹ Ibid.

¹⁶² Stone, Foglesong, and Cole, *Policing Los Angeles Under a Consent Degree*, 21.

Christopher Commission as a “siege mentality.” Here an officer views citizens as the enemy and therefore the “rules of engagement” for fighting a wartime enemy are similarly invoked. Under this mentality, “citizen enemies” do not deserve the full liberties guaranteed by the Constitution.¹⁶³

The other vision is “the Dirty Harry” mentality, which rationalizes vigilante justice.¹⁶⁴ Officers that subscribe to this view believe they should meet-out “street justice.” This was likely the primary viewpoint of the officers involved in the Rodney King incident. King failed to follow the rules and ran from police, and when he got captured he remained generally non-compliant. This contemptuous behavior likely became the catalyst for LAPD officers to view themselves as the ones responsible for correcting King’s conduct and instead of allowing the criminal justice system run its course, the verdict was issued on the street.

BWCs are not a panacea to these cultural and institutional injustices. But it is argued that BWCs will play a vital role in any long-term solution that is developed. For example, BWCs cannot prevent a police department from hiring a woefully unqualified police officer. But BWCs can give the department information that will confirm or dispel whether the officer is engaged in misconduct.

BWCs are also a way for police departments to achieve the same kind of relations with marginalized communities that they have with mainstream ones. Though some members may feel uncomfortable with being recorded, many others may feel assured that

¹⁶³ Warren Christopher, *Report of the Independent Commission on the Los Angeles Police Department* (Collingdale, PA: Diane Publishing, 1991), 16, https://books.google.com/books?hl=en&lr=&id=sBTB_IbeNb4C&oi=fnd&pg=PR1&dq=Christopher+Commission+as+a+%E2%80%9Csiege+mentality&ots=DQjfiSWcsU&sig=ufsswfd5zPUI3OjwRQgzknkzWLo0.

¹⁶⁴ Skolnick and Fyfe, *Above the Law*, 107.

the police-citizen encounter will remain civil because there is a watchful eye present. If BWCs do encourage all parties to remain civil, then this more humanized and courteous way of interacting with citizens may help restore relations to something more like Peel's vision of citizens cooperating with police (ultimately citizens are the police, and police are the citizens).

The ACLU has urged that all encounters be recorded with few exceptions. The ACLU's argument is that total recording would make the BWC an explicit tool of protection for both parties. Total recording is nevertheless unrealistic because police work is too diverse and unpredictable to subscribe to such bright-line rules. Officers must have the discretion to have casual conversations with citizens without the necessity to record. Officers must also have the discretion to turn off the recording when they are interviewing witnesses that refuse to be officially identified, especially when that refusal is motivated for safety concerns. Mandatorily recording these encounters would needlessly put the witness in jeopardy, and would eventually erode any trust in the community.

Recording all official encounters should be the rule, not the exception. But BWCs must be cognizant of the privacy considerations that BWCs implicate. For example, police may stop a person for reasonable suspicion, or even without reasonable suspicion if the temporary detention is strictly controlled and an officer's discretion is effectively controlled. Suspicious-less stops include TSA screenings and DUI checkpoints. Every encounter where the police have lawful authority to detain someone should be recorded on the BWC. Further, this rule should include those situations where an officer has reasonable suspicion to detain someone, but instead gains the suspect's consent and therefore never actually "detains" a suspect against their will. BWCs play an important role in these

situations even though the level of intrusiveness is relatively minor and limited. For example, the video could be used in court to show a judge that the encounter was indeed consensual, and therefore any evidence lawfully discovered should not be suppressed because the officer did not articulate reasonable suspicion or probable cause in their report.

Agency policies must allow their officers some latitude when an event is unrecordable because of immediate need for an officer to take action. Take, for example, an officer who is parked on the side of the road reading his in-car computer and an assailant begins to shoot at the patrol car.¹⁶⁵ It would be incredulous for BWC advocates to require the officer first turn on his BWC before responding with lethal force. In this example it is likely that none of the encounter would be recorded on the BWC.

It must also be recognized that BWC technology is in its infancy. Battery life is barely adequate for a normal shift. Memory cards can only hold so much video and BWCs are difficult for rural officers who do not have daily access to a computer so they can upload their videos. Though BWC technology is good enough for deployment in many larger jurisdictions, it must be remembered that when in-car cameras first got deployed they also had issues. BWCs are no different and the technology will get better. For example, once battery life and memory capacity improve it will be possible for the BWC to constantly record a 30 second, one-minute or even two-minute loop. This would prove invaluable in the previous example where the officer had to engage the deadly threat and had no time to turn on the BWC. If the officer's BWC was on a one-minute loop, then once he pressed the

¹⁶⁵ "Las Vegas Cop Shot 'Ambush-Style' While Sitting in Patrol Car at Traffic Light; Officer Hit in Hand, in Stable Condition (Updated)," *The Blaze*, September 6, 2015, <http://www.theblaze.com/stories/2015/09/06/las-vegas-cop-shot-ambush-style-while-sitting-in-patrol-car-at-traffic-light-officer-hit-in-hand-in-stable-condition/>.

record button the previous one minute of “inactive” recording would be incorporated. Since most police shootings are over in seconds, not minutes, the BWC would have likely recorded the entire incident without any officer involvement. Most modern in-car camera systems have this feature.

One of the most important BWC considerations is maintaining privacy inside protected areas defined by the Constitution. These areas include the four specific areas enumerated; persons, houses, papers, and effects,¹⁶⁶ as well as those areas where a person has a reasonable expectation of privacy.¹⁶⁷ These protected areas may present significant difficulty on how agencies must respond to record’s requests. If a BWC video is of a suspect encounter in a public park, then there may be no privacy issues in releasing this video to the public. But what happens when police search the person’s backpack, and the BWC video displays intimate effects belonging to the suspect? Should the BWC video be redacted to remove this private intrusion of a Constitutionally protected area?¹⁶⁸ The same question is presented when officers record inside someone’s home. Should the suspect’s neighbor be allowed to request the BWC video as a public record?

It appears that BWC video of unprotected areas would indeed be public record and conversely any recording of a protected area would not. But this does not provide a workable solution to those agencies that simply have no qualified personnel that can properly redact the video. Special software is required, and if there is nothing that would stop a citizen from requesting all of an agency’s videos then many smaller agencies would

¹⁶⁶ *US v. Jones*, 132 S. Ct. 945 (Supreme Court 2012).

¹⁶⁷ *Katz v. United States*, 88 S. Ct. 507 (Supreme Court 1967).

¹⁶⁸ *Wilson v. Layne (Syllabus)*, 526 U.S. 603 (U.S. Supreme Court 1999).

be overly burdened (most police departments in the United States have fewer than 10 officers). Redacting even one relatively short video could take an hour or more, a considerable amount of resources for many agencies. The solution argued here is to exempt all BWC video from general disclosure unless requested by a charged suspect in a case or by a citizen filing an official complaint. Naturally, charged suspects should have access to the video as part of their defense. Additionally, police administrators should maintain their authority to release a video if it was in the public interest, e.g., an officer involved shooting or other high-profile incident.

The ACLU has expressed concerns that police may use BWC videos as part of a general surveillance scheme. This concern is legitimate and should be considered by lawmakers. For example, software could be developed that could analyze an entire agency's BWC video database, and by using facial recognition algorithms and GPS coordinates, may retrace a suspect's movements. Arguably this exercise would currently reveal limited information because BWCs are not yet ubiquitous and their recording capacity is not particularly robust. In essence the ACLU's concerns are currently unfounded but one day in the near future the ACLU's concerns may materialize. Legislation should prohibit such *1984*-style data reconstruction unless a search warrant was issued. Additionally, agencies should be restricted from retaining these videos unless they were tagged for official purposes, such as arrests, investigations, use of force, and so forth. If the video was not tagged, then the video should be purged after forty-five days. Forty-five days would allow citizens sufficient time to file a complaint against an officer and have the video retrieved as evidence. Additionally, citizens should be informed that video evidence may exist and that the video will be compared against the citizen's allegations.

Usually, this pre-complaint disclosure is enough to dissuade complainants from filing false allegations.

BWCs offer a window to the officer's performance. Never before has an agency been able to substantially post-monitor an officer's official contacts with the public. In the future BWC technology may even allow live feeds from an officer's BWC. The very nature of most police work prevents a supervisor from seeing a significant amount of the officer's conduct in person. BWCs are an ideal solution and supervisors must review an officer's conduct not just during a high-profile use of force incident, but during more routine events as well. Officers must remember that they hold a position of incredible public trust, and if they abuse that trust it not only can have immediate negative consequences (internal discipline), but also erodes the very foundation of the police-citizen relationship. Officers who display disrespect and unprofessionalism to members of the public, especially marginalized populations, damage the entire profession and prevent the community policing model from being truly enacted.

But BWCs cannot become a form of surveillance and oppression for already marginalized citizens. If BWCs are nothing more than a tool for police to keep tabs on criminal suspects, it will miss an opportunity to genuinely improve police-citizen relations. It is argued that the key to improving these relationships are threefold: BWC videos must not be indiscriminately disclosed to the general public, non-essential videos must be routinely purged, and the recordings must be randomly reviewed by supervisors to ensure officers are not engaging in misconduct, especially against marginalized citizens.

The police profession has been revolutionized by a few technologies. The telephone helped citizens request police assistance, and call-boxes allowed officers to check-in with

headquarters and retrieve their next assignment. Automobiles allowed police officers to respond to emergency calls quickly. Mobile police radios allowed supervisors to instantly contact officers under their charge. Mobile computers put the information-age at an officer's fingertips. And BWCs will usher in a level of transparency never before imagined, and will provide the required information to police administrators to weed-out cultural and institutional misconduct that, until now, was almost impossible to accurately identify and discipline its culprits.

Chapter X

Bibliography

- Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: New Press, 2012.
https://books.google.com/books?hl=en&lr=&id=_SKbzXqmawoC&oi=fnd&pg=PA1&dq=The+New+Jim+Crow:+Mass+Incarceration+in+an+Age+of+Colorblindness&ots=jrAhzGb2ex&sig=Fj5GqgnJ9bL3aKpjOTFqc1WnlTk.
- “Annual Firearms Discharge Report from the New York Police Department.” Accessed October 9, 2015. <http://www.nytimes.com/interactive/2013/11/20/nyregion/20shooting-report.html>.
- Arendt, Hannah. *The Human Condition*. Chicago: University of Chicago Press, 2013.
https://books.google.com/books?hl=en&lr=&id=ARBJAgAAQBAJ&oi=fnd&pg=PR5&dq=The+Human+Condition&ots=dDhuoJOwYA&sig=LEhToQTNuI7ciIU_5Q71L63wQD4.
- Ariel, Barak, William A. Farrar, and Alex Sutherland. “The Effect of Police Body-Worn Cameras on Use of Force and Citizens’ Complaints against the Police: A Randomized Controlled Trial.” *Journal of Quantitative Criminology* 31, no. 3 (2014): 509–535.
- Bouie, Jamelle. “Black and Blue.” *Slate*, October 13, 2014.
http://www.slate.com/articles/news_and_politics/politics/2014/10/diversity_won_t_solve_police_misconduct_black_cops_don_t_reduce_violence.html.
- Braga, Anthony, Andrew Papachristos, and David Hureau. “Hot Spots Policing Effects on Crime.” *Campbell Systematic Reviews* 8, no. 8 (2012): 1–96.
- Braithwaite, Helen, and Neil Brewer. “Differences in the Conflict Resolution Tactics of Male and Female Police Patrol Officers.” *International Journal of Police Science & Management* 1 (1998): 276.
- Brunson, Rod K. “‘Police Don’t Like Black People’: African-American Young Men’s Accumulated Police Experiences*.” *Criminology & Public Policy* 6, no. 1 (February 1, 2007): 71–101. doi:10.1111/j.1745-9133.2007.00423.x.
- Bugliosi, Vincent T. “No Justice, No Peace.” *Playboy* 40, no. 2 (1993): 66–68.
- Chabris, Christopher, and Daniel Simons. *The Invisible Gorilla: And Other Ways Our Intuitions Deceive Us*. New York: Broadway Books, 2011.
https://books.google.com/books?hl=en&lr=&id=VecEbBYC_sEC&oi=fnd&pg=PR11&dq=The+Invisible+Gorilla&ots=2Lh55wKtqu&sig=8bhjfNqcBV1fHYTGgD-sATNuoj4.

Chevigny, Paul. *Police Power: Police Abuses in New York City*. New York: Pantheon Books, 1969. <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=1800>.

Christopher, Warren. *Report of the Independent Commission on the Los Angeles Police Department*. Collingdale, PA: Diane Publishing, 1991.
https://books.google.com/books?hl=en&lr=&id=sBTB_IbeNb4C&oi=fnd&pg=PR1&dq=Christopher+Commission+as+a+%E2%80%9Csiege+mentality&ots=DQjfiSWcsU&sig=ufsswfd5zPUi3OjwRQgzknzWLo0.

“Cop on Tape: ‘I’m Going to Make Stuff Up’.” *ABC News*, February 15, 2012.
<http://abcnews.go.com/US/seattle-arrest-questions-cops-dash-cams/story?id=15595576>.

Correll, Joshua, Bernadette Park, Charles M. Judd, and Bernd Wittenbrink. “The Police Officer’s Dilemma: Using Ethnicity to Disambiguate Potentially Threatening Individuals.” *Journal of Personality and Social Psychology* 83, no. 6 (2002): 1314.

“Criminologist: UC Officer Could Be Charged with Lying.” *Cincinnati.com*. Accessed October 9, 2015. <http://www.cincinnati.com/story/news/2015/07/31/criminologist-uc-officer-charged-lying/30890861/>.

Durkheim, Emile. *Durkheim: The Rules of Sociological Method: And Selected Texts on Sociology and Its Method*. New York: Palgrave Macmillan, 2013.
<https://books.google.com/books?hl=en&lr=&id=308dBQAAQBAJ&oi=fnd&pg=PP1&dq=The+Rules+of+Sociological+Method&ots=CvZrulDZS9&sig=P0UYx0EnJY3wCBNv0JloDOFgnag>.

Eith, Christine, and Matthew R. Durose. “Contacts between Police and the Public, 2008.” *Washington, DC*, 2011. <http://bjs.gov/content/pub/pdf/cpp08.pdf>.

Eltman, Frank, and Associated Press. “Citizens Taking Video of Police See Themselves Facing Arrest.” *SFGate*. Accessed October 8, 2015.
<http://www.sfgate.com/news/crime/article/Police-sometimes-turn-on-the-citizen-with-a-6473271.php>.

Farrar, Tony, and Barak Ariel. “Self-Awareness to Being Watched and Socially-Desirable Behavior: A Field Experiment on the Effect of Body-Worn Cameras on Police Use-of-Force.” *Washington, DC: Police Foundation*, 2013.

“The FBI Is Trying to Get Better Data on Police Killings. Here’s What We Know Now.” *Vox*. Accessed October 9, 2015. <http://www.vox.com/2014/8/21/6051043/how-many-people-killed-police-statistics-homicide-official-black>.

Feeney, Matthew. “Police Body Cameras Raise Privacy Issues for Cops and the Public.” *Cato Institute*. Accessed October 11, 2015. <http://www.cato.org/blog/police-body-cameras-raise-privacy-issues-cops-public>.

“Fighting Police Abuse: A Community Action Manual.” *American Civil Liberties Union*. Accessed October 9, 2015. <https://www.aclu.org/fighting-police-abuse-community-action-manual>.

Floyd v. City of New York, 959 F. Supp. 2d 540 (Dist. Court 2013).

- Fyfe, James J. "The Metro-Dade Police/citizen Violence Reduction Project: Final Report." *Washington, DC: Police Foundation*, 1988.
- Gervais, Will M., and Ara Norenzayan. "Like a Camera in the Sky? Thinking about God Increases Public Self-Awareness and Socially Desirable Responding." *Journal of Experimental Social Psychology* 48, no. 1 (2012): 298–302.
- Goldsmith, Andrew John. "Policing's New Visibility." *British Journal of Criminology*, June 25, 2010. doi:10.1093/bjc/azq033.
- Graham v. Connor, 109 S. Ct. 1865 (Supreme Court 1989).
- Gurr, Ted Robert. "Why Men Rebel Princeton." *NJ, Published for the Center of International Studies*, 1970.
- Holmes, Malcolm D., and Brad W. Smith. "Intergroup Dynamics of Extra-Legal Police Aggression: An Integrated Theory of Race and Place." *Aggression and Violent Behavior* 17, no. 4 (2012): 344–353.
- Human Rights Watch. "Shielded from Justice: Police Brutality and Accountability in the United States." *Human Rights Watch, New York, Washington, London, Brussels*, 1998.
- IACP. "Research and Best Practices from the IACP Study on In Car Cameras," 2001.
- "Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned." Accessed October 9, 2015. http://cops.usdoj.gov/html/dispatch/10-2014/body_worn_camera_program.asp.
- James, Lois, Bryan Vila, and Kenn Daratha. "Results from Experimental Trials Testing Participant Responses to White, Hispanic and Black Suspects in High-Fidelity Deadly Force Judgment and Decision-Making Simulations." *Journal of Experimental Criminology* 9, no. 2 (2013): 189–212.
- Jay, Timothy. "Why We Curse: A Neuro-Psycho-Social Theory of Speech." Philadelphia: John Benjamins Publishing, 1999.
<https://books.google.com/books?hl=en&lr=&id=UcJHAAAAQBAJ&oi=fnd&pg=PR1&dq=Why+We+Curse:+A+Neuro-Psycho-Social+Theory+of+Speech&ots=m9yx9QHGtg&sig=ZLJow6CyYBrjUuaXv6Zer1KVHVY>.
- Jennings, Wesley G., Lorie A. Fridell, and Mathew D. Lynch. "Cops and Cameras: Officer Perceptions of the Use of Body-Worn Cameras in Law Enforcement." *Journal of Criminal Justice* 42, no. 6 (2014): 549–556.
- Johnson, J., and Violent Police-Violent Business. "Use of Force and The Hollywood Factor." *Journal of California Law Enforcement* 41, no. 1 (2007): 7.
- Johnson, Richard R. "Officer Firearms Assaults at Domestic Violence Calls: A Descriptive Analysis." *Police Journal* 81, no. 1 (2008): 25–45.
- Katz v. United States, 88 S. Ct. 507 (Supreme Court 1967).

- Klepper, S., and D. Nagin. "The Deterrent Effect of Perceived Certainty and Severity of Punishment Revisited." *Criminology* 27 (1989): 721.
- Krejcirik, Gerhard. "Simple Form Helps Officers Expedite Mental Illness Calls," September 23, 2014. <http://www.forcescience.org/fsnews/267.html>.
- "Las Vegas Cop Shot 'Ambush-Style' While Sitting in Patrol Car at Traffic Light; Officer Hit in Hand, in Stable Condition (Updated)." *The Blaze*, September 6, 2015. <http://www.theblaze.com/stories/2015/09/06/las-vegas-cop-shot-ambush-style-while-sitting-in-patrol-car-at-traffic-light-officer-hit-in-hand-in-stable-condition/>.
- Lersch, Kim Michelle, and Tom Mieczkowski. "Violent Police Behavior: Past, Present, and Future Research Directions." *Aggression and Violent Behavior* 10, no. 5 (2005): 552–568.
- Lewinski, Bill. "Do Head Cameras Always See What You See in a Force Encounter?," March 10, 2010. <http://www.forcescience.org/fsnews/145.html>.
- . "Readers Respond to Officer-Involved Video Viewing Issues," April 10, 2010. <http://www.forcescience.org/fsnews/147.html>.
- McElvain, James P., and Augustine J. Kposowa. "Police Officer Characteristics and Internal Affairs Investigations for Use of Force Allegations." *Journal of Criminal Justice* 32, no. 3 (2004): 265–79.
- Munger, Kristen, and Shelby J. Harris. "Effects of an Observer on Hand Washing in a Public Restroom." *Perceptual and Motor Skills* 69, no. 3 (1989): 733–734.
- Natapoff, Alexandra. *Snitching: Criminal Informants and the Erosion of American Justice*. New York: New York University Press, 2009. <https://books.google.com/books?hl=en&lr=&id=gkMx-o6dNK8C&oi=fnd&pg=PR7&dq=Snitching:+Criminal+Informants+and+the+Erosion+of+American+Justice&ots=YrqrTe50Wk&sig=dxmAGZuaiuNywmc0ltgVLZhCkDU>.
- "New Findings on Shell Ejection Patterns Help Clear Officer on Trial for Murder." *PoliceOne*. Accessed October 8, 2015. <http://www.policeone.com/officer-shootings/articles/94341-New-findings-on-shell-ejection-patterns-help-clear-officer-on-trial-for-murder/>.
- "A New Way to Punish Oakland Cops?" *East Bay Express*. Accessed October 11, 2015. <http://www.eastbayexpress.com/oakland/a-new-way-to-oakland-cops/Content?oid=3125656>.
- Neyfakh, Leon. "Why Are So Many Americans in Prison?" *Slate*, February 6, 2015. http://www.slate.com/articles/news_and_politics/crime/2015/02/mass_incarceration_a_povocative_new_theory_for_why_so_many_americans_are.html.
- "Number of Citizens Killed by Police," January 1, 2015. KilledByPolice.net.
- Patton, Alison L. "The Endless Cycle of Abuse: Why 42 USC 1983 Is Ineffective in Deterring Police Brutality." *Hastings Law Journal* 44 (1992): 753.

- Pfaff, John F. "Escaping from the Standard Story: Why the Conventional Wisdom on Prison Growth Is Wrong, and Where We Can Go from Here." *Federal Sentencing Reporter* 26, no. 4 (2014): 265–270.
- . "The Micro and Macro Causes of Prison Growth." *Georgia State University Law Review* 28, no. 4 (2013): 9.
- . "The Myths and Realities of Correctional Severity: Evidence from the National Corrections Reporting Program on Sentencing Practices." *American Law and Economics Review*, 2011. <http://aler.oxfordjournals.org/content/early/2011/09/14/aler.ahr010.short>.
- Pinker, Steven. "What the F***?" *New Republic*, October 8, 2007. <http://www.newrepublic.com/article/politics/what-the-f>.
- Plant, E. Ashby, and B. Michelle Peruche. "The Consequences of Race for Police Officers' Responses to Criminal Suspects." *Psychological Science* 16, no. 3 (2005): 180–183.
- Prenzler, Tim, Louise Porter, and Geoffrey P. Alpert. "Reducing Police Use of Force: Case Studies and Prospects." *Aggression and Violent Behavior* 18, no. 2 (2013): 343–356.
- Rahtz, Howard. *Understanding Police Use of Force*. Monsey, NY: Criminal Justice Press, 2003. <http://www.ncjrs.gov/App/abstractdb/AbstractDBDetails.aspx?id=201987>.
- Ramirez, Eugene P. *A Report on Body Worn Cameras*. Public Agency Risk Sharing Authority of California, 2014. http://www.parsac.org/parsac-www/pdf/Bulletins/14-005_Report_BODY_WORN_CAMERAS.pdf.
- "Ranking: Most Prisoners per Capita by Country 2015 | Statista." *Statista*. Accessed October 9, 2015. <http://www.statista.com/statistics/262962/countries-with-the-most-prisoners-per-100-000-inhabitants/>.
- Regan, D., and A. Vincent. "Visual Processing of Looming and Time to Contact throughout the Visual Field." *Ophthalmic Literature* 2, no. 49 (1996): 129.
- Reiss, Albert J. "Police Brutality-Answers to Key Questions." *Society* 5, no. 8 (1968): 10–19.
- . *The Police and the Public*. Vol. 39. New Haven: Yale University Press, 1973. <https://books.google.com/books?hl=en&lr=&id=2ErEylE6PUgC&oi=fnd&pg=PR10&dq=The+Police+and+the+Public&ots=tGvKLmmbxX&sig=uvvYCRbuv84UP40CZLokIAHE8nQ>.
- Reith, Charles. *The Blind Eye of History: A Study of the Origins of the Present Police Era*. 4th ed. Vol. 2. London, England: Faber & Faber, 1975.
- Rob Hustle. *Call the Cops - Rob Hustle Ft. Bump*. Accessed October 8, 2015. <https://www.youtube.com/watch?v=Ily9C6pzxKc>.
- Rostker, Bernard D., William M. Hix, and Jeremy M. Wilson. *Recruitment and Retention: Lessons for the New Orleans Police Department*. Rand Corporation, 2007. <https://books.google.com/books?hl=en&lr=&id=mDyIDLeCWAUC&oi=fnd&pg=PP1&>

dq=new+orleans+police+pay+&ots=dcDTFdM-B8&sig=KjRFOtoIfh0vNCu851Ps-w2Zz0Q.

Rydberg, Jason, and William Terrill. "The Effect of Higher Education on Police Behavior." *Police Quarterly* 13, no. 1 (2010): 92–120.

"Shot by the Police in Albuquerque." *The New Yorker*. Accessed October 8, 2015.
<http://www.newyorker.com/magazine/2015/02/02/son-deceased>.

Skolnick, Jerome H., and James J. Fyfe. *Above the Law: Police and the Excessive Use of Force*. New York: Free Press, 1993.
<http://www.ncjrs.gov/App/abstractdb/AbstractDBDetails.aspx?id=141219>.

Smith, Brad W., and Malcolm D. Holmes. "Police Use of Excessive Force in Minority Communities: A Test of the Minority Threat, Place, and Community Accountability Hypotheses." *Social Problems* 61, no. 1 (2014): 83–104.

Stahl, Jeremy. "New Body Cam Videos Show Cops Coalescing around False Narrative of Sam DuBose Killing." *Slate*, July 30, 2015.
http://www.slate.com/blogs/the_slatest/2015/07/30/sam_dubose_murder_phillip_kidd_and_david_lindenschmidt_suspended_after_backing.html.

Stanley, Jay. *Police Body-Mounted Cameras: With Right Policies in Place, a Win for All*. New York: ACLU, 2013. <http://69.55.226.8/sites/default/files/attachments/police-body-mounted-cameras-stanley.pdf>.

Stone, Christopher, Todd S. Foglesong, and Christine M. Cole. *Policing Los Angeles under a Consent Degree: The Dynamics of Change at the LAPD*. Harvard Kennedy School, 2009.
<http://watch-command-1142464325.us-east-1.elb.amazonaws.com/assets/pdf/Harvard-LAPD%20Study.pdf>.

Swaine, Jon, Oliver Laughl, Jamiles Lartey, Kenan Davis, Rich Harris, Nadja Popovich, Kenton Powell on the Guardian US interactive team, et al. "The Counted: People Killed by Police in the United States in 2015 – Interactive." *The Guardian*, June 1, 2015.
<http://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database>.

Sykes, Gary. "The Functional Nature of Police Reform: The 'myth' of Controlling the Police." *Justice Quarterly* 2, no. 1 (March 1, 1985): 51–65. doi:10.1080/07418828500088381.

Tennessee v. Garner, 105 S. Ct. 1694 (Supreme Court 1985).

"Texas Sheriff Announces Arrest in Deputy's Death - CNN.com." *CNN*. Accessed October 9, 2015. <http://www.cnn.com/2015/08/29/us/texas-sheriffs-deputy-shot-gas-station/index.html>.

Thompson, George J. *Verbal Judo: The Gentle Art of Persuasion*. New York: HarperCollins Publishers, 2010.

Toch, Hans. *Stress in Policing*. American Psychological Association, 2002.
<http://psycnet.apa.org/psycinfo/2001-05025-000>.

US v. Jones, 132 S. Ct. 945 (Supreme Court 2012).

US v. Taketa, 923 F. 2d 665 (Court of Appeals, 9th Circuit 1991).

Walker, Samuel. "Popular Justice: A History of American Criminal Justice." *Michigan Law Review* 79 (1980): 921.

Walker, Samuel, Geoffrey P. Alpert, and Dennis Jay Kenney. *Early Warning Systems: Responding to the Problem Police Officer*. US Department of Justice, Office of Justice Programs, National Institute of Justice, 2001.
<http://zimmer.csufresno.edu/~haralds/Linkpages/reports/earlywarn.pdf>.

Walker, Samuel, and Vic W. Bumphus. "The Effectiveness of Civilian Review: Observations on Recent Trends and New Issues Regarding the Civilian Review of the Police." *American Journal of Police* 11 (1992): 1.

Way, Lori Beth, and Ryan Patten. *Hunting for Dirtbags: Why Cops Over-Police the Poor and Racial Minorities*. UPNE, 2013.
<https://books.google.com/books?hl=en&lr=&id=GjzzJ0oNLeIC&oi=fnd&pg=PP2&dq=Hunting+for+%22Dirtbags%22:+Why+Cops+Over-Police+the+Poor+and+Racial+Minorities&ots=jMEaxqtOHE&sig=eNmrCvgrjtlzbE7ngzgm7PnGAZY>.

Weitzer, Ronald, and Steven A. Tuch. "Race and Perceptions of Police Misconduct." *Social Problems* 51, no. 3 (August 1, 2004): 305–25. doi:10.1525/sp.2004.51.3.305.

West, Heather C., and William J. Sabol. "Prison Inmates at Midyear 2008-Statistical Tables." *Bureau of Justice Statistics* 225619 (2009).
http://www.oas.int/dsp/Observatorio/Tablas/usa/US_prison_inmates_statistical_tables_2008.pdf.

Westmarland, Louise. "Police Ethics and Integrity: Breaking the Blue Code of Silence." *Policing and Society* 15, no. 2 (2005): 145–165.

White, Michael D. "Police Officer Body-Worn Cameras: Assessing the Evidence." *Washington, DC: Office of Community Oriented Policing Services*, 2014.
<https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=270041>.

Wilson v. Layne (Syllabus), 526 U.S. 603 (U.S. Supreme Court 1999).